

By Senator Mitchell

4-1321-99

See HB

1 A bill to be entitled
2 An act relating to child protection; amending
3 s. 39.001, F.S., relating to purpose and intent
4 of ch. 39, F.S.; conforming and clarifying
5 provisions and references; amending s. 39.0015,
6 F.S., relating to child abuse prevention
7 training in the district school system;
8 amending s. 39.01, F.S.; revising and
9 conforming definitions; amending s. 39.011,
10 F.S., relating to immunity from liability;
11 amending s. 39.0121, F.S., relating to
12 rulemaking authority; amending s. 39.013, F.S.;
13 clarifying and conforming provisions relating
14 to procedures, jurisdiction, and right to
15 counsel; amending s. 39.0132, F.S.; reducing
16 the period during which the court must preserve
17 records pertaining to a dependent child;
18 providing for admission of termination of
19 parental rights orders as evidence in
20 subsequent proceedings; creating s. 39.01345,
21 F.S.; providing criteria and guidelines for
22 appointment of attorney to represent an
23 indigent parent; providing for attorney's fees
24 and costs; providing for creation and
25 enforcement of liens; amending s. 39.202, F.S.;
26 revising provisions relating to confidentiality
27 of reports and records; amending s. 39.206,
28 F.S., relating to imposition of administrative
29 fines for false reporting; amending s. 39.301,
30 F.S.; revising provisions relating to
31 initiation of protective investigation;

1 amending s. 39.302, F.S.; conforming a
2 cross-reference; amending s. 39.3035, F.S.,
3 relating to child advocacy centers; amending s.
4 39.304, F.S., relating to medical examination
5 and treatment; amending ss. 39.311, 39.312, and
6 39.313, F.S., relating to the Family Builders
7 Program; amending s. 39.395, F.S., relating to
8 detaining a child; amending s. 39.401, F.S.,
9 relating to taking a child into custody;
10 amending s. 39.402, F.S.; revising provisions
11 relating to placement in a shelter; providing
12 for parents' right to continuance of shelter
13 hearing to obtain counsel; requiring the
14 shelter order to require certain financial
15 information from the parent or legal custodian;
16 providing timeframe for review of shelter
17 placement; amending s. 39.407, F.S., relating
18 to medical and psychological examinations;
19 amending s. 39.501, F.S., relating to petition
20 for dependency; amending s. 39.502, F.S.,
21 relating to notice, process, and service;
22 amending s. 39.503, F.S., relating to
23 identifying or locating a parent; amending s.
24 39.504, F.S., relating to injunction pending
25 disposition of petition; amending s. 39.506,
26 F.S.; revising provisions relating to
27 arraignment hearings; specifying when failure
28 of a person to appear constitutes consent to a
29 dependency adjudication; amending s. 39.507,
30 F.S., relating to adjudicatory hearings;
31 amending s. 39.508, F.S.; revising provisions

1 relating to disposition hearings and orders;
2 providing for permanency status of the child;
3 specifying conditions for termination of
4 departmental supervision and cessation of
5 judicial reviews; amending s. 39.5085, F.S.,
6 relating to the Relative Caregiver Program;
7 amending s. 39.509, F.S., relating to
8 grandparents' rights; amending s. 39.510, F.S.,
9 relating to appeal; amending s. 39.601, F.S.;
10 revising and clarifying case plan requirements;
11 amending s. 39.602, F.S., relating to case
12 planning for a child in out-of-home care;
13 amending s. 39.603, F.S.; conforming timeframes
14 relating to court approvals of case planning;
15 amending s. 39.701, F.S.; revising and
16 clarifying timeframes relating to judicial
17 reviews; specifying that notice is not required
18 for persons present at the previous hearing;
19 providing for a parent's partial compliance
20 with the case plan; requiring that certain
21 updated documentation be furnished to the
22 court; amending s. 39.702, F.S., relating to
23 citizen review panels; amending s. 39.703,
24 F.S., relating to initiation of proceedings to
25 terminate parental rights; amending s. 39.704,
26 F.S., relating to exemption from judicial
27 review; amending s. 39.801, F.S., relating to
28 procedures, jurisdiction, and notice for
29 termination of parental rights; providing
30 notice and consequences regarding failure to
31 appear at advisory hearings; providing for

1 service of subpoenas by agents of the
2 department or guardian ad litem; amending s.
3 39.802, F.S., relating to petition for
4 termination of parental rights; amending s.
5 39.805, F.S., relating to no answer to petition
6 or pleadings required; amending s. 39.806,
7 F.S.; revising grounds for termination of
8 parental rights; revising timeframe for
9 identification or location of parent in
10 provisions relating to termination of parental
11 rights; amending s. 39.807, F.S., relating to
12 right to counsel; revising timeframe for
13 provision of certain reports to all parties;
14 amending s. 39.808, F.S., relating to advisory
15 hearing and pretrial status conference;
16 amending s. 39.811, F.S., relating to powers
17 and order of disposition; amending s. 39.814,
18 F.S., relating to oaths, records, and
19 confidential information; amending s. 39.815,
20 F.S., relating to appeal; amending s. 39.822,
21 F.S., relating to appointment of guardian ad
22 litem for abused, abandoned, or neglected
23 child; specifying timeframe for provision of
24 reports to all parties; amending ss. 63.0427
25 and 419.001, F.S.; conforming cross-references;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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31

1 Section 1. Paragraphs (g) and (j) of subsection (1) of
2 section 39.001, Florida Statutes, 1998 Supplement, are amended
3 to read:

4 39.001 Purposes and intent; personnel standards and
5 screening.--

6 (1) PURPOSES OF CHAPTER.--The purposes of this chapter
7 are:

8 (g) To ensure that the parent or legal custodian
9 ~~guardian~~ from whose custody the child has been taken assists
10 the department to the fullest extent possible in locating
11 relatives suitable to serve as caregivers for the child.

12 (j) To ensure that, when reunification or adoption is
13 not possible, the child will be prepared for alternative
14 permanency goals or placements, to include, but not be limited
15 to, long-term foster care, independent living, custody to a
16 relative on a permanent basis with or without legal
17 guardianship, or custody to a foster parent or legal custodian
18 ~~caregiver~~ on a permanent basis with or without legal
19 guardianship.

20 Section 2. Paragraph (b) of subsection (3) and
21 paragraph (a) of subsection (4) of section 39.0015, Florida
22 Statutes, 1998 Supplement, are amended to read:

23 39.0015 Child abuse prevention training in the
24 district school system.--

25 (3) DEFINITIONS.--As used in this section:

26 (b) "Child abuse" means those acts as defined in ss.
27 39.01(1), (2), (30), and (46), 827.04, and 984.03(1), (2), and
28 (39).

29 (4) PRIMARY PREVENTION AND TRAINING PROGRAM.--A
30 primary prevention and training program shall include all of
31 the following, as appropriate for the persons being trained:

1 (a) Information provided in a clear and nonthreatening
2 manner, describing the problem of child abuse, including, but
3 not limited to,sexual abuse, physical abuse, abandonment,
4 neglect, and alcohol and drug abuse, and the possible
5 solutions.

6 Section 3. Section 39.01, Florida Statutes, 1998
7 Supplement, is amended to read:

8 39.01 Definitions.--When used in this chapter, unless
9 the context otherwise requires:

10 (1) "Abandoned" means a situation in which the parent
11 ~~or legal custodian~~ of a child ~~or, in the absence of a parent~~
12 ~~or legal custodian, the caregiver responsible for the child's~~
13 ~~welfare~~, while being able, makes no provision for the child's
14 support and makes no effort to communicate with the child,
15 which situation is sufficient to evince a willful rejection of
16 parental obligations. If the efforts of such parent ~~or legal~~
17 ~~custodian, or caregiver primarily responsible for the child's~~
18 ~~welfare, to support and communicate with the child are~~, in the
19 opinion of the court, only marginal efforts that do not evince
20 a settled purpose to assume all parental duties, the court may
21 declare the child to be abandoned. The term "abandoned" does
22 not include a "child in need of services" as defined in
23 chapter 984 or a "family in need of services" as defined in
24 chapter 984. The incarceration of a parent, ~~legal custodian,~~
25 ~~or caregiver responsible for a child's welfare~~ may support a
26 finding of abandonment.

27 (2) "Abuse" means any willful act or threatened act
28 that results in any physical, mental, or sexual injury or harm
29 that causes or is likely to cause the child's physical,
30 mental, or emotional health to be significantly impaired. ~~For~~
31 ~~the purpose of protective investigations,~~Abuse of a child

1 includes ~~the~~ acts or omissions of ~~the parent, legal custodian,~~
2 ~~caregiver, or other person responsible for the child's~~
3 ~~welfare.~~ Corporal discipline of a child by a parent, ~~legal~~
4 ~~custodian, or caregiver~~ for disciplinary purposes does not in
5 itself constitute abuse when it does not result in harm to the
6 child.

7 (3) "Addictions receiving facility" means a substance
8 abuse service provider as defined in chapter 397.

9 (4) "Adjudicatory hearing" means a hearing for the
10 court to determine whether or not the facts support the
11 allegations stated in the petition in dependency cases or in
12 termination of parental rights cases.

13 (5) "Adult" means any natural person other than a
14 child.

15 (6) "Adoption" means the act of creating the legal
16 relationship between parent and child where it did not exist,
17 thereby declaring the child to be legally the child of the
18 adoptive parents and their heir at law, and entitled to all
19 the rights and privileges and subject to all the obligations
20 of a child born to such adoptive parents in lawful wedlock.

21 (7) "Alleged juvenile sexual offender" means:

22 (a) A child 12 years of age or younger who is alleged
23 to have committed a violation of chapter 794, chapter 796,
24 chapter 800, s. 827.071, or s. 847.0133; or

25 (b) A child who is alleged to have committed any
26 violation of law or delinquent act involving juvenile sexual
27 abuse. "Juvenile sexual abuse" means any sexual behavior which
28 occurs without consent, without equality, or as a result of
29 coercion. For purposes of this paragraph, the following
30 definitions apply:

31

- 1 1. "Coercion" means the exploitation of authority or
2 the use of bribes, threats of force, or intimidation to gain
3 cooperation or compliance.
- 4 2. "Equality" means two participants operating with
5 the same level of power in a relationship, neither being
6 controlled nor coerced by the other.
- 7 3. "Consent" means an agreement, including all of the
8 following:
- 9 a. Understanding what is proposed based on age,
10 maturity, developmental level, functioning, and experience.
- 11 b. Knowledge of societal standards for what is being
12 proposed.
- 13 c. Awareness of potential consequences and
14 alternatives.
- 15 d. Assumption that agreement or disagreement will be
16 accepted equally.
- 17 e. Voluntary decision.
- 18 f. Mental competence.
- 19
- 20 Juvenile sexual offender behavior ranges from noncontact
21 sexual behavior such as making obscene phone calls,
22 exhibitionism, voyeurism, and the showing or taking of lewd
23 photographs to varying degrees of direct sexual contact, such
24 as frottage, fondling, digital penetration, rape, fellatio,
25 sodomy, and various other sexually aggressive acts.
- 26 (8) "Arbitration" means a process whereby a neutral
27 third person or panel, called an arbitrator or an arbitration
28 panel, considers the facts and arguments presented by the
29 parties and renders a decision which may be binding or
30 nonbinding.
- 31

1 (9) "Authorized agent" or "designee" of the department
2 means an employee, volunteer, or other person or agency
3 determined by the state to be eligible for state-funded risk
4 management coverage, that is assigned or designated by the
5 department to perform duties or exercise powers pursuant to
6 this chapter.

7 (10) "Caregiver" means the parent, legal custodian,
8 adult household member, or other person responsible for a
9 child's welfare as defined in subsection (48) ~~(47)~~.

10 (11) "Case plan" or "plan" means a document, as
11 described in s. 39.601, prepared by the department with input
12 from all parties, ~~including parents, guardians ad litem, legal~~
13 ~~custodians, caregivers, and the child.~~ The case plan follows
14 the child from the provision of voluntary services through any
15 dependency, foster care, or termination of parental rights
16 proceeding or related activity or process.

17 (12) "Child" or "youth" means any unmarried person
18 under the age of 18 years who has not been emancipated by
19 order of the court ~~and who has been alleged or found to be~~
20 ~~dependent.~~

21 (13) "Child protection team" means a team of
22 professionals established by the Department of Health to
23 receive referrals from the protective investigators and
24 protective supervision staff of the department and to provide
25 specialized and supportive services to the program in
26 processing child abuse, abandonment, or neglect cases. A child
27 protection team shall provide consultation to other programs
28 of the department and other persons regarding child abuse,
29 abandonment, or neglect cases.

30 (14) "Child who is found to be dependent" means a
31 child who, pursuant to this chapter, is found by the court:

1 (a) To have been abandoned, abused, or neglected by
2 the child's parent or parents, ~~legal custodians, or~~
3 ~~caregivers~~;

4 (b) To have been surrendered to the department, the
5 former Department of Health and Rehabilitative Services, or a
6 licensed child-placing agency for purpose of adoption;

7 (c) To have been voluntarily placed with a licensed
8 child-caring agency, a licensed child-placing agency, an adult
9 relative, the department, or the former Department of Health
10 and Rehabilitative Services, after which placement, under the
11 requirements of this chapter, a case plan has expired and the
12 parent or parents, ~~legal custodians, or caregivers~~ have failed
13 to substantially comply with the requirements of the plan;

14 (d) To have been voluntarily placed with a licensed
15 child-placing agency for the purposes of subsequent adoption,
16 and a ~~natural~~ parent or parents have signed a consent pursuant
17 to the Florida Rules of Juvenile Procedure;

18 (e) To have no parent, ~~legal custodian, or caregiver~~
19 to provide supervision and care; or

20 (f) To be at substantial risk of imminent abuse,
21 abandonment, or neglect by the parent or parents, ~~legal~~
22 ~~custodians, or caregivers~~.

23 (15) "Child support" means a court-ordered obligation,
24 enforced under chapter 61 and ss. 409.2551-409.2597, for
25 monetary support for the care, maintenance, training, and
26 education of a child.

27 (16) "Circuit" means any of the 20 judicial circuits
28 as set forth in s. 26.021.

29 (17) "Comprehensive assessment" or "assessment" means
30 the gathering of information for the evaluation of a child's
31 and caregiver's physical, psychiatric, psychological or mental

1 health, educational, vocational, and social condition and
2 family environment as they relate to the child's and
3 caregiver's need for rehabilitative and treatment services,
4 including substance abuse treatment services, mental health
5 services, developmental services, literacy services, medical
6 services, family services, and other specialized services, as
7 appropriate.

8 (18) "Court," unless otherwise expressly stated, means
9 the circuit court assigned to exercise jurisdiction under this
10 chapter.

11 (19) "Department" means the Department of Children and
12 Family Services.

13 (20) "Diligent efforts by a parent, ~~legal custodian,~~
14 ~~or caregiver~~" means a course of conduct which results in a
15 reduction in risk to the child in the child's home that would
16 allow the child to be safely placed permanently back in the
17 home as set forth in the case plan.

18 (21) "Diligent efforts of social service agency" means
19 reasonable efforts to provide social services or reunification
20 services made by any social service agency that is a party to
21 a case plan.

22 (22) "Diligent search" means the efforts of a social
23 service agency to locate a parent or prospective parent whose
24 identity or location is unknown, initiated as soon as the
25 social service agency is made aware of the existence of such
26 parent, with the search progress reported at each court
27 hearing until the parent is either identified and located or
28 the court excuses further search.

29 (23) "Disposition hearing" means a hearing in which
30 the court determines the most appropriate protection services
31 and placement for the child ~~family support services in the~~

1 ~~least restrictive available setting~~ in dependency cases ~~or in~~
2 ~~termination of parental rights cases.~~

3 (24) "District" means any one of the 15 service
4 districts of the department established pursuant to s. 20.19.

5 (25) "District administrator" means the chief
6 operating officer of each service district of the department
7 as defined in s. 20.19(7) and, where appropriate, includes any
8 district administrator whose service district falls within the
9 boundaries of a judicial circuit.

10 (26) "Expedited termination of parental rights" means
11 proceedings wherein a case plan with the goal of reunification
12 is not being offered.

13 (27) "False report" means a report of abuse, neglect,
14 or abandonment of a child to the central abuse hotline, which
15 report is maliciously made for the purpose of:

16 (a) Harassing, embarrassing, or harming another
17 person;

18 (b) Personal financial gain for the reporting person;

19 (c) Acquiring custody of a child; or

20 (d) Personal benefit for the reporting person in any
21 other private dispute involving a child.

22

23 The term "false report" does not include a report of abuse,
24 neglect, or abandonment of a child made in good faith to the
25 central abuse hotline.

26 (28) "Family" means a collective body of persons,
27 consisting of a child and a parent, legal custodian,
28 ~~caregiver,~~ or adult relative, in which:

29 (a) The persons reside in the same house or living
30 unit; or

31

1 (b) The parent, legal custodian, ~~caregiver~~, or adult
2 relative has a legal responsibility by blood, marriage, or
3 court order to support or care for the child.

4 (29) "Foster care" means care provided a child in a
5 foster family or boarding home, group home, agency boarding
6 home, child care institution, or any combination thereof.

7 (30) "Harm" to a child's health or welfare can occur
8 when any person ~~the parent, legal custodian, or caregiver~~
9 ~~responsible for the child's welfare~~:

10 (a) Inflicts or allows to be inflicted upon the child
11 physical, mental, or emotional injury. In determining whether
12 harm has occurred, the following factors must be considered in
13 evaluating any physical, mental, or emotional injury to a
14 child: the age of the child; any prior history of injuries to
15 the child; the location of the injury on the body of the
16 child; the multiplicity of the injury; and the type of trauma
17 inflicted. Such injury includes, but is not limited to:

18 1. Willful acts that produce the following specific
19 injuries:

- 20 a. Sprains, dislocations, or cartilage damage.
21 b. Bone or skull fractures.
22 c. Brain or spinal cord damage.
23 d. Intracranial hemorrhage or injury to other internal
24 organs.
25 e. Asphyxiation, suffocation, or drowning.
26 f. Injury resulting from the use of a deadly weapon.
27 g. Burns or scalding.
28 h. Cuts, lacerations, punctures, or bites.
29 i. Permanent or temporary disfigurement.
30 j. Permanent or temporary loss or impairment of a body
31 part or function.

1
2 As used in this subparagraph, the term "willful" refers to the
3 intent to perform an action, not to the intent to achieve a
4 result or to cause an injury.

5 2. Purposely giving a child poison, alcohol, drugs, or
6 other substances that substantially affect the child's
7 behavior, motor coordination, or judgment or that result in
8 sickness or internal injury. For the purposes of this
9 subparagraph, the term "drugs" means prescription drugs not
10 prescribed for the child or not administered as prescribed,
11 and controlled substances as outlined in Schedule I or
12 Schedule II of s. 893.03.

13 3. Leaving a child without adult supervision or
14 arrangement appropriate for the child's age or mental or
15 physical condition, so that the child is unable to care for
16 the child's own needs or another's basic needs or is unable to
17 exercise good judgment in responding to any kind of physical
18 or emotional crisis.

19 4. Inappropriate or excessively harsh disciplinary
20 action that is likely to result in physical injury, mental
21 injury as defined in this section, or emotional injury. The
22 significance of any injury must be evaluated in light of the
23 following factors: the age of the child; any prior history of
24 injuries to the child; the location of the injury on the body
25 of the child; the multiplicity of the injury; and the type of
26 trauma inflicted. Corporal discipline may be considered
27 excessive or abusive when it results in any of the following
28 or other similar injuries:

- 29 a. Sprains, dislocations, or cartilage damage.
30 b. Bone or skull fractures.
31 c. Brain or spinal cord damage.

- 1 d. Intracranial hemorrhage or injury to other internal
2 organs.
- 3 e. Asphyxiation, suffocation, or drowning.
- 4 f. Injury resulting from the use of a deadly weapon.
- 5 g. Burns or scalding.
- 6 h. Cuts, lacerations, punctures, or bites.
- 7 i. Permanent or temporary disfigurement.
- 8 j. Permanent or temporary loss or impairment of a body
9 part or function.
- 10 k. Significant bruises or welts.
- 11 (b) Commits, or allows to be committed, sexual
12 battery, as defined in chapter 794, or lewd or lascivious
13 acts, as defined in chapter 800, against the child.
- 14 (c) Allows, encourages, or forces the sexual
15 exploitation of a child, which includes allowing, encouraging,
16 or forcing a child to:
- 17 1. Solicit for or engage in prostitution; or
- 18 2. Engage in a sexual performance, as defined by
19 chapter 827.
- 20 (d) Exploits a child, or allows a child to be
21 exploited, as provided in s. 450.151.
- 22 (e) Abandons the child. Within the context of the
23 definition of "harm," the term "abandons the child" means that
24 the parent ~~or legal custodian of a child or, in the absence of~~
25 ~~a parent or legal custodian, the person responsible for the~~
26 ~~child's welfare~~, while being able, makes no provision for the
27 child's support and makes no effort to communicate with the
28 child, which situation is sufficient to evince a willful
29 rejection of parental obligation. If the efforts of such a
30 parent ~~or legal custodian or person primarily responsible for~~
31 ~~the child's welfare to support and communicate with the child~~

1 are only marginal efforts that do not evince a settled purpose
2 to assume all parental duties, the child may be determined to
3 have been abandoned.

4 (f) Neglects the child. Within the context of the
5 definition of "harm," the term "neglects the child" means that
6 the parent or other person responsible for the child's welfare
7 fails to supply the child with adequate food, clothing,
8 shelter, or health care, although financially able to do so or
9 although offered financial or other means to do so. However,
10 a parent, ~~legal custodian, or caregiver~~ who, by reason of the
11 legitimate practice of religious beliefs, does not provide
12 specified medical treatment for a child may not be considered
13 abusive or neglectful for that reason alone, but such an
14 exception does not:

- 15 1. Eliminate the requirement that such a case be
16 reported to the department;
- 17 2. Prevent the department from investigating such a
18 case; or
- 19 3. Preclude a court from ordering, when the health of
20 the child requires it, the provision of medical services by a
21 physician, as defined in this section, or treatment by a duly
22 accredited practitioner who relies solely on spiritual means
23 for healing in accordance with the tenets and practices of a
24 well-recognized church or religious organization.

25 (g) Exposes a child to a controlled substance or
26 alcohol. Exposure to a controlled substance or alcohol is
27 established by:

- 28 1. Use by the mother of a controlled substance or
29 alcohol during pregnancy when the child, at birth, is
30 demonstrably adversely affected by such usage; or

31

1 2. Continued chronic and severe use of a controlled
2 substance or alcohol by a parent when the child is
3 demonstrably adversely affected by such usage.

4
5 As used in this paragraph, the term "controlled substance"
6 means prescription drugs not prescribed for the parent or not
7 administered as prescribed and controlled substances as
8 outlined in Schedule I or Schedule II of s. 893.03. The parent
9 of a newborn infant may not be subject to criminal
10 investigation solely on the basis of the positive drug
11 toxicology of a newborn infant.

12 (h) Uses mechanical devices, unreasonable restraints,
13 or extended periods of isolation to control a child.

14 (i) Engages in violent behavior that demonstrates a
15 wanton disregard for the presence of a child and could
16 reasonably result in serious injury to the child.

17 (j) Negligently fails to protect a child in his or her
18 care from inflicted physical, mental, or sexual injury caused
19 by the acts of another.

20 (k) Has allowed a child's sibling to die as a result
21 of abuse, abandonment, or neglect.

22 (31) "Health and human services board" means the body
23 created in each service district of the department pursuant to
24 the provisions of s. 20.19(8).

25 (32) "Institutional child abuse or neglect" means
26 situations of known or suspected child abuse or neglect in
27 which the person allegedly perpetrating the child abuse or
28 neglect is an employee of a private school, public or private
29 day care center, residential home, institution, facility, or
30 agency or any other person at such institution responsible for
31 the child's care.

1 (33) "Judge" means the circuit judge exercising
2 jurisdiction pursuant to this chapter.

3 (34) "Legal custody" means a legal status created by
4 court order or letter of guardianship which vests in a
5 custodian of the person or guardian, whether an agency or an
6 individual, the right to have physical custody of the child
7 and the right and duty to protect, train, and discipline the
8 child and to provide him or her with food, shelter, education,
9 and ordinary medical, dental, psychiatric, and psychological
10 care. The legal custodian is the person or entity in whom the
11 legal right to custody is vested. When the phrase "parent or
12 legal custodian" is used in this chapter, it refers to rights
13 or responsibilities of the parent and, only if there is no
14 living parent with intact parental rights, to the rights or
15 responsibilities of the legal custodian who has assumed the
16 role of the parent.

17 (35) "Legal guardianship" means a judicially created
18 relationship between the child and caregiver which is intended
19 to be permanent and self-sustaining and is provided pursuant
20 to the procedures in chapter 744.

21 (36) "Licensed child-caring agency" means a person,
22 society, association, or agency licensed by the department to
23 care for, receive, and board children.

24 (37) "Licensed child-placing agency" means a person,
25 society, association, or institution licensed by the
26 department to care for, receive, or board children and to
27 place children in a licensed child-caring institution or a
28 foster or adoptive home.

29 (38) "Licensed health care professional" means a
30 physician licensed under chapter 458, an osteopathic physician
31 licensed under chapter 459, a nurse licensed under chapter

1 464, a physician assistant licensed under chapter 458 or
2 chapter 459, or a dentist licensed under chapter 466.

3 (39) "Likely to injure oneself" means that, as
4 evidenced by violent or other actively self-destructive
5 behavior, it is more likely than not that within a 24-hour
6 period the child will attempt to commit suicide or inflict
7 serious bodily harm on himself or herself.

8 (40) "Likely to injure others" means that it is more
9 likely than not that within a 24-hour period the child will
10 inflict serious and unjustified bodily harm on another person.

11 (41) "Long-term relative custodian" means an adult
12 relative who is a party to a long-term custodial relationship
13 created by a court order pursuant to this chapter.

14 (42) "Long-term relative custody" or "long-term
15 custodial relationship" means the relationship that a juvenile
16 court order creates between a child and an adult relative of
17 the child or other legal custodian ~~caregiver~~ approved by the
18 court when the child cannot be placed in the custody of a
19 ~~natural~~ parent and termination of parental rights is not
20 deemed to be in the best interest of the child. Long-term
21 ~~relative~~ custody confers upon the ~~long-term~~ relative or other
22 legal custodian ~~caregiver~~ the right to physical custody of the
23 child, a right which will not be disturbed by the court except
24 upon request of the legal custodian ~~caregiver~~ or upon a
25 showing that the best interest of the child ~~a material change~~
26 ~~in circumstances~~ necessitates a change of custody for ~~the best~~
27 ~~interest of~~ the child. A ~~long-term~~ relative or other legal
28 custodian who has been designated as a long-term custodian
29 ~~caregiver~~ shall have all of the rights and duties of a ~~natural~~
30 parent, including, but not limited to, the right and duty to
31 protect, train, and discipline the child and to provide the

1 child with food, shelter, and education, and ordinary medical,
2 dental, psychiatric, and psychological care, unless these
3 rights and duties are otherwise enlarged or limited by the
4 court order establishing the long-term custodial relationship.

5 (43) "Mediation" means a process whereby a neutral
6 third person called a mediator acts to encourage and
7 facilitate the resolution of a dispute between two or more
8 parties. It is an informal and nonadversarial process with
9 the objective of helping the disputing parties reach a
10 mutually acceptable and voluntary agreement. The role of the
11 mediator includes, but is not limited to, assisting the
12 parties in identifying issues, fostering joint problem
13 solving, and exploring settlement alternatives.

14 (44) "Mental injury" means an injury to the
15 intellectual or psychological capacity of a child as evidenced
16 by a discernible and substantial impairment in the ability to
17 function within the normal range of performance and behavior.

18 (45) "Necessary medical treatment" means care which is
19 necessary within a reasonable degree of medical certainty to
20 prevent the deterioration of a child's condition or to
21 alleviate immediate pain of a child.

22 (46) "Neglect" occurs when ~~the parent or legal~~
23 ~~custodian of a child or, in the absence of a parent or legal~~
24 ~~custodian, the caregiver deprives~~ a child is deprived of, or
25 is allowed ~~allows a child~~ to be deprived of, necessary food,
26 clothing, shelter, or medical treatment or ~~permits~~ a child is
27 permitted to live in an environment when such deprivation or
28 environment causes the child's physical, mental, or emotional
29 health to be significantly impaired or to be in danger of
30 being significantly impaired. The foregoing circumstances
31 shall not be considered neglect if caused primarily by

1 financial inability unless actual services for relief have
2 been offered to and rejected by such person. A parent, ~~legal~~
3 ~~custodian, or caregiver~~ legitimately practicing religious
4 beliefs in accordance with a recognized church or religious
5 organization who thereby does not provide specific medical
6 treatment for a child shall not, for that reason alone, be
7 considered a negligent parent, ~~legal custodian, or caregiver~~;
8 however, such an exception does not preclude a court from
9 ordering the following services to be provided, when the
10 health of the child so requires:

11 (a) Medical services from a licensed physician,
12 dentist, optometrist, podiatric physician, or other qualified
13 health care provider; or

14 (b) Treatment by a duly accredited practitioner who
15 relies solely on spiritual means for healing in accordance
16 with the tenets and practices of a well-recognized church or
17 religious organization.

18

19 ~~For the purpose of protective investigations, Neglect of a~~
20 ~~child includes the acts or omissions of the parent, legal~~
21 ~~custodian, or caregiver.~~

22 ~~(47) "Other person responsible for a child's welfare"~~
23 ~~includes the child's legal guardian, legal custodian, or~~
24 ~~foster parent; an employee of a private school, public or~~
25 ~~private child day care center, residential home, institution,~~
26 ~~facility, or agency; or any other person legally responsible~~
27 ~~for the child's welfare in a residential setting; and also~~
28 ~~includes an adult sitter or relative entrusted with a child's~~
29 ~~care. For the purpose of departmental investigative~~
30 ~~jurisdiction, this definition does not include law enforcement~~
31 ~~officers, or employees of municipal or county detention~~

1 ~~facilities or the Department of Corrections, while acting in~~
2 ~~an official capacity.~~

3 (47)~~(48)~~ "Next of kin" means an adult relative of a
4 child who is the child's brother, sister, grandparent, aunt,
5 uncle, or first cousin.

6 (48) "Other person responsible for a child's welfare"
7 includes the child's legal guardian, legal custodian, or
8 foster parent; an employee of a private school, public or
9 private child day care center, residential home, institution,
10 facility, or agency; or any other person legally responsible
11 for the child's welfare in a residential setting; and also
12 includes an adult sitter or relative entrusted with a child's
13 care. For the purpose of departmental investigative
14 jurisdiction, this definition does not include law enforcement
15 officers, or employees of municipal or county detention
16 facilities or the Department of Corrections, while acting in
17 an official capacity.

18 (49) "Out-of-home" means a placement outside of the
19 home of the parents or a parent.

20 (50)~~(49)~~ "Parent" means a woman who gives birth to a
21 child and a man whose consent to the adoption of the child
22 would be required under s. 63.062(1)(b). If a child has been
23 legally adopted, the term "parent" means the adoptive mother
24 or father of the child. The term does not include an
25 individual whose parental relationship to the child has been
26 legally terminated, or an alleged or prospective parent,
27 unless the parental status falls within the terms of s.
28 39.503(1)~~39.4051(1)~~ or s. 63.062(1)(b). When the phrase
29 "parent or legal custodian" is used in this chapter, it refers
30 to rights or responsibilities of the parent and, only if there
31 is no living parent with intact parental rights, to the rights

1 or responsibilities of the legal custodian who has assumed the
2 role of the parent.

3 (51)~~(50)~~ "Participant," for purposes of a shelter
4 proceeding, dependency proceeding, or termination of parental
5 rights proceeding, means any person who is not a party but who
6 should receive notice of hearings involving the child,
7 including foster parents or the legal custodian of the child
8 ~~caregivers~~, identified prospective parents, grandparents
9 entitled to priority for adoption consideration under s.
10 63.0425, actual custodians of the child, and any other person
11 whose participation may be in the best interest of the child.
12 Participants may be granted leave by the court to be heard
13 without the necessity of filing a motion to intervene.

14 (52)~~(51)~~ "Party" means the parent or parents ~~legal~~
15 ~~custodian~~ of the child, the petitioner, the department, the
16 guardian ad litem or the representative of the guardian ad
17 litem program when the program has been appointed, and the
18 child. The presence of the child may be excused by order of
19 the court when presence would not be in the child's best
20 interest. Notice to the child may be excused by order of the
21 court when the age, capacity, or other condition of the child
22 is such that the notice would be meaningless or detrimental to
23 the child.

24 (53)~~(52)~~ "Physical injury" means death, permanent or
25 temporary disfigurement, or impairment of any bodily part.

26 (54)~~(53)~~ "Physician" means any licensed physician,
27 dentist, podiatric physician ~~podiatrist~~, or optometrist and
28 includes any intern or resident.

29 (55)~~(54)~~ "Preliminary screening" means the gathering
30 of preliminary information to be used in determining a child's
31 need for further evaluation or assessment or for referral for

1 other substance abuse services through means such as
2 psychosocial interviews; urine and breathalyzer screenings;
3 and reviews of available educational, delinquency, and
4 dependency records of the child.

5 (56)~~(55)~~ "Preventive services" means social services
6 and other supportive and rehabilitative services provided to
7 the parent of the child, ~~the legal custodian of the child, or~~
8 ~~the caregiver of the child~~ and to the child for the purpose of
9 averting the removal of the child from the home or disruption
10 of a family which will or could result in the placement of a
11 child in foster care. Social services and other supportive
12 and rehabilitative services shall promote the child's need for
13 physical, mental, and emotional health and a safe, stable,
14 living environment, shall promote family autonomy, and shall
15 strengthen family life, whenever possible.

16 (57)~~(56)~~ "Prospective parent" means a person who
17 claims to be, or has been identified as, a person who may be a
18 mother or a father of a child.

19 (58)~~(57)~~ "Protective investigation" means the
20 acceptance of a report alleging child abuse, abandonment, or
21 neglect, as defined in this chapter, by the central abuse
22 hotline or the acceptance of a report of other dependency by
23 the department; the investigation of each report; the
24 determination of whether action by the court is warranted; the
25 determination of the disposition of each report without court
26 or public agency action when appropriate; and the referral of
27 a child to another public or private agency when appropriate.

28 (59)~~(58)~~ "Protective investigator" means an authorized
29 agent of the department who receives and investigates reports
30 of child abuse, abandonment, or neglect; who, as a result of
31 the investigation, may recommend that a dependency petition be

1 filed for the child; and who performs other duties necessary
2 to carry out the required actions of the protective
3 investigation function.

4 (60)~~(59)~~ "Protective supervision" means a legal status
5 in dependency cases which permits the child to remain safely
6 in his or her own home or other nonlicensed placement under
7 the supervision of an agent of the department and which must
8 be reviewed by the court during the period of supervision.

9 (61)~~(60)~~ "Relative" means a grandparent,
10 great-grandparent, sibling, first cousin, aunt, uncle,
11 great-aunt, great-uncle, niece, or nephew, whether related by
12 the whole or half blood, by affinity, or by adoption. The term
13 does not include a stepparent.

14 (62)~~(61)~~ "Reunification services" means social
15 services and other supportive and rehabilitative services
16 provided to the parent of the child, ~~the legal custodian of~~
17 ~~the child, or the caregiver of the child, whichever is~~
18 ~~applicable,~~to the child, and, where appropriate, to the
19 relative placement, nonrelative placement, or foster parents
20 of the child, for the purpose of enabling a child who has been
21 placed in out-of-home care to safely return to his or her
22 family at the earliest possible time. The health and safety
23 of the child shall be the paramount goal of social services
24 and other supportive and rehabilitative services. Such
25 services shall promote the child's need for physical, mental,
26 and emotional health and a safe, stable, living environment,
27 shall promote family autonomy, and shall strengthen family
28 life, whenever possible.

29 (63)~~(62)~~ "Secretary" means the Secretary of Children
30 and Family Services.

31

1 (64)~~(63)~~ "Sexual abuse of a child" means one or more
2 of the following acts:

3 (a) Any penetration, however slight, of the vagina or
4 anal opening of one person by the penis of another person,
5 whether or not there is the emission of semen.

6 (b) Any sexual contact between the genitals or anal
7 opening of one person and the mouth or tongue of another
8 person.

9 (c) Any intrusion by one person into the genitals or
10 anal opening of another person, including the use of any
11 object for this purpose, except that this does not include any
12 act intended for a valid medical purpose.

13 (d) The intentional touching of the genitals or
14 intimate parts, including the breasts, genital area, groin,
15 inner thighs, and buttocks, or the clothing covering them, of
16 either the child or the perpetrator, except that this does not
17 include:

18 1. Any act which may reasonably be construed to be a
19 normal caregiver responsibility, any interaction with, or
20 affection for a child; or

21 2. Any act intended for a valid medical purpose.

22 (e) The intentional masturbation of the perpetrator's
23 genitals in the presence of a child.

24 (f) The intentional exposure of the perpetrator's
25 genitals in the presence of a child, or any other sexual act
26 intentionally perpetrated in the presence of a child, if such
27 exposure or sexual act is for the purpose of sexual arousal or
28 gratification, aggression, degradation, or other similar
29 purpose.

30 (g) The sexual exploitation of a child, which includes
31 allowing, encouraging, or forcing a child to:

- 1 1. Solicit for or engage in prostitution; or
2 2. Engage in a sexual performance, as defined by
3 chapter 827.
- 4 (65)~~(64)~~ "Shelter" means a placement with a relative
5 or a nonrelative, or in a licensed home or facility,~~place~~ for
6 the temporary care of a child who is alleged to be or who has
7 been found to be dependent, pending court disposition before
8 or after adjudication.
- 9 (66)~~(65)~~ "Shelter hearing" means a hearing in which
10 the court determines whether probable cause exists to keep a
11 child in shelter status pending further investigation of the
12 case.
- 13 (67)~~(66)~~ "Social service agency" means the department,
14 a licensed child-caring agency, or a licensed child-placing
15 agency.
- 16 (68)~~(67)~~ "Substance abuse" means using, without
17 medical reason, any psychoactive or mood-altering drug,
18 including alcohol, in such a manner as to induce impairment
19 resulting in dysfunctional social behavior.
- 20 (69)~~(68)~~ "Substantial compliance" means that the
21 circumstances which caused the creation of the case plan have
22 been significantly remedied to the extent that the well-being
23 and safety of the child will not be endangered upon the
24 child's remaining with or being returned to the child's
25 parent,~~legal custodian, or caregiver.~~
- 26 (70)~~(69)~~ "Taken into custody" means the status of a
27 child immediately when temporary physical control over the
28 child is attained by a person authorized by law, pending the
29 child's release or placement.
- 30 (71)~~(70)~~ "Temporary legal custody" means the
31 relationship that a juvenile court creates between a child and

1 an adult relative of the child, legal custodian, ~~or caregiver~~
2 ~~approved by the court,~~ or other person approved by the court
3 until a more permanent arrangement is ordered. Temporary legal
4 custody confers upon the custodian the right to have temporary
5 physical custody of the child and the right and duty to
6 protect, train, and discipline the child and to provide the
7 child with food, shelter, and education, and ordinary medical,
8 dental, psychiatric, and psychological care, unless these
9 rights and duties are otherwise enlarged or limited by the
10 court order establishing the temporary legal custody
11 relationship.

12 (72)~~(71)~~ "Victim" means any child who has sustained or
13 is threatened with physical, mental, or emotional injury
14 identified in a report involving child abuse, neglect, or
15 abandonment, or child-on-child sexual abuse.

16 Section 4. Subsection (3) of section 39.011, Florida
17 Statutes, 1998 Supplement, is amended to read:

18 39.011 Immunity from liability.--

19 (3) A member or agent of a citizen review panel acting
20 in good faith is not liable for damages as a result of any
21 review or recommendation with regard to a dependency ~~foster~~
22 ~~care or shelter care~~ matter unless such member or agent
23 exhibits wanton and willful disregard of human rights or
24 safety, or property.

25 Section 5. Subsection (5) of section 39.0121, Florida
26 Statutes, 1998 Supplement, is amended to read:

27 39.0121 Specific rulemaking authority.--Pursuant to
28 the requirements of s. 120.536, the department is specifically
29 authorized to adopt, amend, and repeal administrative rules
30 which implement or interpret law or policy, or describe the
31

1 procedure and practice requirements necessary to implement
2 this chapter, including, but not limited to, the following:

3 (5) Requesting of services from child protection teams
4 ~~and services, and eligible cases.~~

5 Section 6. Subsections (3), (4), (5), (7), and (10),
6 paragraphs (a) and (c) of subsection (8), and paragraphs (b)
7 and (d) of subsection (9) of section 39.013, Florida Statutes,
8 1998 Supplement, are amended to read:

9 39.013 Procedures and jurisdiction; right to
10 counsel.--

11 (3) When a child is under the jurisdiction of the
12 circuit court pursuant to the provisions of this chapter, the
13 ~~juvenile court, as a division of the circuit court assigned to~~
14 handle dependency matters, may exercise the general and
15 equitable jurisdiction over guardianship proceedings pursuant
16 to the provisions of chapter 744, and proceedings for
17 temporary custody of minor children by extended family
18 pursuant to the provisions of chapter 751.

19 (4) The court shall expedite the resolution of the
20 placement issue in cases involving a child who has been
21 removed from the family and placed in an out-of-home placement
22 ~~a shelter.~~

23 (5) The court shall expedite the judicial handling of
24 all cases when the child has been removed from the family and
25 placed in an out-of-home placement ~~a shelter.~~

26 (7) For any child who remains in the custody ~~or under~~
27 ~~the supervision~~ of the department, the court shall, within the
28 month which constitutes the beginning of the 6-month period
29 before the child's 18th birthday, hold a hearing to review the
30 progress of the child while in the custody ~~or under the~~
31 supervision of the department.

1 (8)(a) At each stage of the proceedings under this
2 chapter, the court shall advise the parents ~~parent, legal~~
3 ~~custodian, or caregiver~~ of the right to counsel. The court
4 shall appoint counsel for indigent parents ~~persons~~. The court
5 shall ascertain whether the right to counsel is understood.
6 When right to counsel is waived, the court shall determine
7 whether the waiver is knowing and intelligent. The court shall
8 enter its findings in writing with respect to the appointment
9 or waiver of counsel for indigent parents ~~parties~~ or the
10 waiver of counsel by nonindigent parents ~~parties~~.

11 (c)1. No waiver of counsel may be accepted if it
12 appears that the ~~parent, legal custodian, or caregiver~~ is
13 unable to make an intelligent and understanding choice because
14 of mental condition, age, education, experience, the nature or
15 complexity of the case, or other factors.

16 2. A waiver of counsel made in court must be of
17 record.

18 3. If a waiver of counsel is accepted at any hearing
19 or proceeding, the offer of assistance of counsel must be
20 renewed by the court at each subsequent stage of the
21 proceedings at which the ~~parent, legal custodian, or caregiver~~
22 appears without counsel.

23 (9) The time limitations in this chapter do not
24 include:

25 (b) Periods of delay resulting from a continuance
26 granted at the request of the attorney for the department or
27 petitioner, if the continuance is granted:

28 1. Because of an unavailability of evidence material
29 to the case when the attorney for the department or petitioner
30 has exercised due diligence to obtain such evidence and there
31 are substantial grounds to believe that such evidence will be

1 available within 30 days. However, if the department or
2 petitioner is not prepared to present its case within 30 days,
3 the parent ~~or guardian~~ may move for issuance of an order to
4 show cause or the court on its own motion may impose
5 appropriate sanctions, which may include dismissal of the
6 petition.

7 2. To allow the attorney for the department or
8 petitioner additional time to prepare the case and additional
9 time is justified because of an exceptional circumstance.

10 (d) Reasonable periods of delay resulting from a
11 continuance granted at the request of the parent ~~or legal~~
12 ~~custodian~~ of a subject child.

13 ~~(10) Court-appointed counsel representing indigent~~
14 ~~parents or legal guardians at shelter hearings shall be paid~~
15 ~~from state funds appropriated by general law.~~

16 Section 7. Subsections (2) and (3) of section 39.0132,
17 Florida Statutes, 1998 Supplement, are amended, and paragraph
18 (e) is added to subsection (6) of that section, to read:

19 39.0132 Oaths, records, and confidential
20 information.--

21 (2) The court shall make and keep records of all cases
22 brought before it pursuant to this chapter and shall preserve
23 the records pertaining to a dependent child until 7 ~~10~~ years
24 after the last entry was made, or until the child is 18 years
25 of age, whichever date is first reached, and may then destroy
26 them, except that records of cases where orders were entered
27 permanently depriving a parent of the custody of a juvenile
28 shall be preserved permanently. The court shall make official
29 records, consisting of all petitions and orders filed in a
30 case arising pursuant to this part and any other pleadings,
31

1 certificates, proofs of publication, summonses, warrants, and
2 other writs which may be filed therein.

3 (3) The clerk shall keep all court records required by
4 this part separate from other records of the circuit court.
5 All court records required by this part shall not be open to
6 inspection by the public. All records shall be inspected only
7 upon order of the court by persons deemed by the court to have
8 a proper interest therein, except that, subject to the
9 provisions of s. 63.162, a child and the parents, ~~legal~~
10 ~~custodians, or caregivers~~ of the child and their attorneys,
11 guardian ad litem, law enforcement agencies, and the
12 department and its designees shall always have the right to
13 inspect and copy any official record pertaining to the child.
14 The court may permit authorized representatives of recognized
15 organizations compiling statistics for proper purposes to
16 inspect and make abstracts from official records, under
17 whatever conditions upon their use and disposition the court
18 may deem proper, and may punish by contempt proceedings any
19 violation of those conditions.

20 (6) No court record of proceedings under this chapter
21 shall be admissible in evidence in any other civil or criminal
22 proceeding, except that:

23 (e) Orders permanently and involuntarily terminating
24 the rights of a parent shall be admissible as evidence in
25 subsequent termination of parental rights proceedings for a
26 sibling of the child for whom parental rights were terminated.

27 Section 8. Section 39.01345, Florida Statutes, is
28 created to read:

29 39.01345 Attorney's fees.--
30
31

1 (1) The court shall appoint an attorney to represent a
2 parent under this chapter only upon a finding that the parent
3 is indigent.

4 (a) The finding of indigency of any parent may be made
5 by the court at any stage of the proceedings. Any parent
6 claiming indigency shall file with the court an affidavit
7 containing the factual information required in paragraphs (c)
8 and (d).

9 (b) A parent who is unable to pay for the services of
10 an attorney without substantial hardship to self or family is
11 indigent for the purposes of this chapter.

12 (c) Before finding that a parent is indigent, the
13 court shall determine whether any of the following facts
14 exist, and the existence of any such fact creates a
15 presumption that the parent is not indigent:

16 1. The parent has no dependents and has a gross income
17 exceeding \$250 per week, or the parent has dependents and has
18 a gross income exceeding \$250 per week plus \$100 per week for
19 each dependent.

20 2. The parent owns cash in excess of \$1,000.

21 3. The parent has an interest exceeding \$1,000 in
22 value in a single motor vehicle as defined in s. 320.01.

23 (d) The court shall also consider the following
24 circumstances before finding that a parent is indigent:

25 1. The probable expense of being represented in the
26 case.

27 2. The parent's ownership of, or equity in, any
28 intangible or tangible personal property or real property or
29 expectancy of an interest in any such property.

30 3. The amount of debts the parent owes or might incur
31 because of illness or other misfortunes within the family.

1 (2) If, after the appointment of counsel for an
2 indigent parent, it is determined that the parent is not
3 indigent, the court has continuing jurisdiction to assess
4 attorney's fees and costs against the parent and order the
5 payment thereof. When payment of attorney's fees or costs has
6 been assessed and ordered by the court, there is hereby
7 created a lien in the name of the county in which the legal
8 assistance was rendered, enforceable as provided in subsection
9 (3), upon all the property, both real and personal, of the
10 parent who received the court-appointed counsel under this
11 chapter. The lien constitutes a claim against the parent and
12 the parent's estate in an amount to be determined by the court
13 in which the legal assistance was rendered.

14 (3)(a) The lien created for court-ordered payment of
15 attorney's fees or costs under subsection (2) is enforceable
16 upon all the property, both real and personal, of the parent
17 who is being, or has been, represented by legal counsel
18 appointed by the court in proceedings under this chapter. The
19 lien constitutes a claim against the person and the estate of
20 the parent, enforceable according to law, in an amount to be
21 determined by the court in which the legal assistance was
22 rendered.

23 (b) Immediately after the issuance of an order for the
24 payment of attorney's fees or costs, a judgment showing the
25 name, the residence address, the date of birth, and either a
26 physical description or the social security number of the
27 parent must be filed for record in the office of the clerk of
28 the circuit court in the county where the parent resides and
29 in each county in which the parent presently owns or later
30 acquires any property. The judgment is enforceable on behalf
31

1 of the county by the board of county commissioners of the
2 county in which the legal assistance was rendered.

3 (c) Instead of the procedure described in paragraphs
4 (a) and (b), the court is authorized to require that the
5 parent who has been represented by legal counsel appointed by
6 the court in proceedings under this chapter execute a lien
7 upon his or her real or personal property, presently owned or
8 later acquired, as security for the debt created by the
9 court's order requiring payment of attorney's fees or costs.
10 The lien must be recorded in the public records of the county
11 at no charge by the clerk of the circuit court and is
12 enforceable in the same manner as a mortgage.

13 (d) The board of county commissioners of the county
14 where the parent received the services of an appointed private
15 legal counsel is authorized to enforce, satisfy, compromise,
16 settle, subordinate, release, or otherwise dispose of any debt
17 or lien imposed under this section. A parent who has been
18 ordered to pay attorney's fees or costs and who is not in
19 willful default in the payment thereof may, at any time,
20 petition the court that entered the order for remission of the
21 payment of attorney's fees or costs or of any unpaid portion
22 thereof. If the court determines that payment of the amount
23 due will impose manifest hardship on the parent or immediate
24 family, the court may remit all or part of the amount due in
25 attorney's fees or costs or may modify the method of payment.

26 (e) The board of county commissioners of the county
27 claiming the lien is authorized to contract with a collection
28 agency for collection of debts or liens imposed under this
29 section, provided the fee for collection is on a contingent
30 basis, not to exceed 50 percent of the recovery. However, no
31 fee may be paid to any collection agency by reason of

1 foreclosure proceedings against real property or from the
2 proceeds from the sale or other disposition of real property.

3 Section 9. Subsection (1) and paragraphs (a), (d), and
4 (i) of subsection (2) of section 39.202, Florida Statutes,
5 1998 Supplement, are amended to read:

6 39.202 Confidentiality of reports and records in cases
7 of child abuse or neglect.--

8 (1) In order to protect the rights of the child and
9 the child's parents or other persons responsible for the
10 child's welfare, all records held by the department concerning
11 reports of child abandonment, abuse, or neglect, including
12 reports made to the central abuse hotline and all records
13 generated as a result of such reports, shall be confidential
14 and exempt from the provisions of s. 119.07(1) and shall not
15 be disclosed except as specifically authorized by this
16 chapter. Such exemption from s. 119.07(1) applies to
17 information in the possession of those entities granted access
18 as set forth in this section.

19 (2) Access to such records, excluding the name of the
20 reporter which shall be released only as provided in
21 subsection (4), shall be granted only to the following
22 persons, officials, and agencies:

23 (a) Employees, authorized agents, or contract
24 providers of the department, the Department of Health, or
25 county agencies responsible for carrying out:

26 1. Child or adult protective investigations;i7

27 2. Ongoing child or adult protective services;i7

28 3. Healthy Start services;i7or

29 4. Licensure or approval of adoptive homes, foster
30 homes, or child care facilities, or family day care homes or
31 informal child care providers who receive subsidized child

1 care funding, or other homes used to provide for the care and
2 welfare of children.

3

4 Also, employees or agents of the Department of Juvenile
5 Justice responsible for the provision of services to children,
6 pursuant to chapters 984 and 985.

7 (d) The parent, ~~caregiver, or legal custodian~~ of any
8 child who is alleged to have been abused, abandoned, or
9 neglected, and the child, and their attorneys. This access
10 shall be made available no later than 30 days after the
11 department receives the initial report of abuse, neglect, or
12 abandonment. However, any information otherwise made
13 confidential or exempt by law shall not be released pursuant
14 to this paragraph.

15 (i) Any person authorized by the department who is
16 engaged in the use of such records or information for bona
17 fide research, statistical, or audit purposes. Such individual
18 or entity shall enter into a privacy and security agreement
19 with the department and shall comply with all laws and rules
20 governing the use of such records and information for research
21 and statistical purposes. Information identifying the subjects
22 of such records or information shall be treated as
23 confidential by the researcher and shall not be released in
24 any form.~~However, no information identifying the subjects of~~
25 ~~the report shall be made available to the researcher.~~

26 Section 10. Subsection (5) of section 39.206, Florida
27 Statutes, 1998 Supplement, is amended to read:

28 39.206 Administrative fines for false report of abuse,
29 abandonment, or neglect of a child; civil damages.--

30 (5) At the administrative hearing, the department must
31 prove by a preponderance of the evidence that the person filed

1 a false report with the central abuse hotline. The
2 administrative hearing officer ~~court~~ shall advise any person
3 against whom a fine may be imposed of that person's right to
4 be represented by counsel at the administrative hearing.

5 Section 11. Subsections (2), (5), (8), (11), (12), and
6 (13), and paragraph (e) of subsection (6), of section 39.301,
7 Florida Statutes, 1998 Supplement, are amended to read:

8 39.301 Initiation of protective investigations.--

9 (2)(a) Upon commencing an investigation under this
10 part, the child protective investigator shall inform any
11 subject of the investigation of the following:

12 1. The names of the investigators and identifying
13 credentials from the department.

14 2. The purpose of the investigation.

15 3. The right to obtain his or her own attorney and
16 ways that the information provided by the subject may be used.

17 4. The possible outcomes and services of the
18 department's response shall be explained to the parent
19 ~~caregiver~~.

20 5. The right of the parent, ~~legal custodian, or~~
21 ~~caregiver~~ to be involved to the fullest extent possible in
22 determining the nature of the allegation and the nature of any
23 identified problem.

24 (b) The department's training program shall ensure
25 that protective investigators know how to fully inform
26 parents, ~~guardians, and caregivers~~ of their rights and
27 options, including opportunities for audio or video recording
28 of investigators' interviews with parents, ~~guardians,~~
29 ~~caretakers,~~ or children.

30 (5) The person responsible for the investigation shall
31 make a preliminary determination as to whether the report ~~or~~

1 ~~complaint~~ is complete, consulting with the attorney for the
2 department when necessary. In any case in which the person
3 responsible for the investigation finds that the report ~~or~~
4 ~~complaint~~ is incomplete, he or she shall return it without
5 delay to the person or agency originating the report ~~or~~
6 ~~complaint~~ or having knowledge of the facts, or to the
7 appropriate law enforcement agency having investigative
8 jurisdiction, and request additional information in order to
9 complete the report ~~or complaint~~; however, the confidentiality
10 of any report filed in accordance with this chapter shall not
11 be violated.

12 ~~(a) If it is determined that the report or complaint~~
13 ~~is complete, after determining that such action would be in~~
14 ~~the best interests of the child, the attorney for the~~
15 ~~department shall file a petition for dependency.~~

16 (a) ~~(b)~~ If it is determined that the report ~~or~~
17 ~~complaint~~ is complete, but the interests of the child and the
18 public will be best served by providing the child care or
19 other treatment voluntarily accepted by the child and the
20 parents, ~~caregivers, or legal custodians,~~ the protective
21 investigator may refer the parent and child for such care or
22 other treatment.

23 (b) If it is determined that the child is in need of
24 the protection and supervision of the court, the department
25 shall file a petition for dependency. A petition for
26 dependency shall be filed in all cases classified by the
27 department as high-risk cases, including, but not limited to,
28 cases involving parents of a young age, the use of illegal
29 drugs, or domestic violence.

30 ~~(c) If the person conducting the investigation refuses~~
31 ~~to request the attorney for the department to file a petition~~

1 for dependency is not being filed by the department, the
2 person or agency originating the report ~~complainant~~ shall be
3 advised of the right to file a petition pursuant to this part.

4 (6) For each report it receives, the department shall
5 perform an onsite child protective investigation to:

6 (e) Based on the information obtained from all sources
7 ~~the caregiver~~, complete the risk assessment instrument within
8 48 hours after the initial contact and, if needed, develop a
9 case plan.

10 (8) If the department or its agent determines that a
11 child requires immediate or long-term protection through:

12 (a) Medical or other health care; or

13 (b) Homemaker care, day care, protective supervision,
14 or other services to stabilize the home environment, including
15 intensive family preservation services through the Family
16 Builders Program or the Intensive Crisis Counseling Program,
17 or both, ~~or~~

18 ~~(c) Foster care, shelter care, or other substitute~~
19 ~~care to remove the child from the custody of the parents,~~
20 ~~legal guardians, or caregivers,~~

21
22 such services shall first be offered for voluntary acceptance
23 unless there are high-risk factors that may impact the ability
24 of the parents, ~~legal guardians, or caregivers~~ to exercise
25 judgment. Such factors may include the parents', ~~legal~~
26 ~~guardians', or caregivers'~~ young age or history of substance
27 abuse or domestic violence. The parents, ~~legal custodians, or~~
28 ~~caregivers~~ shall be informed of the right to refuse services,
29 as well as the responsibility of the department to protect the
30 child regardless of the acceptance or refusal of services. If
31 the services are refused and the department deems that the

1 child's need for protection so requires, the department shall
2 take the child into protective custody or petition the court
3 as provided in this chapter.

4 (11) Immediately upon receipt of a report alleging, or
5 immediately upon learning during the course of an
6 investigation, that:

7 (a) The immediate safety or well-being of a child is
8 endangered;

9 (b) The family is likely to flee;

10 (c) A child died as a result of abuse, abandonment, or
11 neglect;

12 (d) A child is a victim of aggravated child abuse as
13 defined in s. 827.03; or

14 (e) A child is a victim of sexual battery or of sexual
15 abuse,

16
17 the department shall orally notify the jurisdictionally
18 responsible state attorney, and county sheriff's office or
19 local police department, and, within 3 working days ~~as soon as~~
20 ~~practicable~~, transmit a full written ~~the~~ report to those
21 agencies. The law enforcement agency shall review the report
22 and determine whether a criminal investigation needs to be
23 conducted and shall assume lead responsibility for all
24 criminal fact-finding activities. A criminal investigation
25 shall be coordinated, whenever possible, with the child
26 protective investigation of the department. Any interested
27 person who has information regarding an offense described in
28 this subsection may forward a statement to the state attorney
29 as to whether prosecution is warranted and appropriate.

30 (12) In a child protective investigation or a criminal
31 investigation, when the initial interview with the child is

1 conducted at school, the department or the law enforcement
2 agency may allow, notwithstanding the provisions of s.
3 39.0132(4), a school ~~instructional~~ staff member who is known
4 by the child to be present during the initial interview if:

5 (a) The department or law enforcement agency believes
6 that the school ~~instructional~~ staff member could enhance the
7 success of the interview by his or her presence; and

8 (b) The child requests or consents to the presence of
9 the school ~~instructional~~ staff member at the interview.

10
11 School ~~instructional~~ staff may only be present when authorized
12 by this subsection. Information received during the interview
13 or from any other source regarding the alleged abuse or
14 neglect of the child shall be confidential and exempt from the
15 provisions of s. 119.07(1), except as otherwise provided by
16 court order. A separate record of the investigation of the
17 abuse, abandonment, or neglect shall not be maintained by the
18 school or school ~~instructional~~ staff member. Violation of this
19 subsection constitutes a misdemeanor of the second degree,
20 punishable as provided in s. 775.082 or s. 775.083.

21 (13) Within 15 days after the completion of the
22 investigation of cases reported to him or her pursuant to this
23 chapter section, the state attorney shall report his or her
24 findings to the department and shall include in such report a
25 determination of whether or not prosecution is justified and
26 appropriate in view of the circumstances of the specific case.

27 Section 12. Subsection (1) of section 39.302, Florida
28 Statutes, 1998 Supplement, is amended to read:

29 39.302 Protective investigations of institutional
30 child abuse, abandonment, or neglect.--

31

1 (1) The department shall conduct a child protective
2 investigation of each report of institutional child abuse,
3 abandonment, or neglect. Upon receipt of a report which
4 alleges that an employee or agent of the department, or any
5 other entity or person covered by s. 39.01(32) or (48)~~(47)~~,
6 acting in an official capacity, has committed an act of child
7 abuse, abandonment, or neglect, the department shall
8 immediately initiate a child protective investigation and
9 orally notify the appropriate state attorney, law enforcement
10 agency, and licensing agency. These agencies shall
11 immediately conduct a joint investigation, unless independent
12 investigations are more feasible. When a facility is exempt
13 from licensing, the department shall inform the owner or
14 operator of the facility of the report. Each agency
15 conducting a joint investigation shall be entitled to full
16 access to the information gathered by the department in the
17 course of the investigation. In all cases, the department
18 shall make a full written report to the state attorney within
19 3 days after making the oral report. A criminal investigation
20 shall be coordinated, whenever possible, with the child
21 protective investigation of the department. Any interested
22 person who has information regarding the offenses described in
23 this subsection may forward a statement to the state attorney
24 as to whether prosecution is warranted and appropriate. Within
25 15 days after the completion of the investigation, the state
26 attorney shall report the findings to the department and shall
27 include in such report a determination of whether or not
28 prosecution is justified and appropriate in view of the
29 circumstances of the specific case.

30
31

1 Section 13. Paragraph (b) of subsection (1) of section
2 39.3035, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 39.3035 Child advocacy centers; standards; state
5 funding.--

6 (1) In order to become eligible for a full membership
7 in the Florida Network of Children's Advocacy Centers, Inc., a
8 child advocacy center in this state shall:

9 (b) Be a child protection team or have as a component
10 a child protection team with established community protocols
11 which meet all of the requirements of the National Network of
12 Children's Advocacy Centers, Inc.

13 Section 14. Subsections (1) and (5) of section 39.304,
14 Florida Statutes, 1998 Supplement, are amended to read:

15 39.304 Photographs, medical examinations, X rays, and
16 medical treatment of abused, abandoned, or neglected child.--

17 (1) Any person required to investigate cases of
18 suspected child abuse, abandonment, or neglect may take or
19 cause to be taken photographs of the areas of trauma visible
20 on a child who is the subject of a report. If the areas of
21 trauma visible on a child indicate a need for a medical
22 examination, or if the child verbally complains or otherwise
23 exhibits distress as a result of injury through suspected
24 child abuse, abandonment, or neglect, or is alleged to have
25 been sexually abused, the person required to investigate may
26 cause the child to be referred for diagnosis to a licensed
27 physician or an emergency department in a hospital without the
28 consent of the child's parents, ~~caregiver~~, or legal custodian.
29 Such examination may be performed by any licensed physician or
30 an advanced registered nurse practitioner licensed pursuant to
31 chapter 464. Any licensed physician, or advanced registered

1 nurse practitioner licensed pursuant to chapter 464, who has
2 reasonable cause to suspect that an injury was the result of
3 child abuse, abandonment, or neglect may authorize a
4 radiological examination to be performed on the child without
5 the consent of the child's parent, ~~caregiver~~, or legal
6 custodian.

7 (5) The county in which the child is a resident shall
8 bear the initial costs of the examination of the allegedly
9 abused, abandoned, or neglected child; however, the parents,
10 ~~caregiver~~, or legal custodian of the child shall be required
11 to reimburse the county for the costs of such examination,
12 other than an initial forensic physical examination as
13 provided in s. 960.28, and to reimburse the department for the
14 cost of the photographs taken pursuant to this section. A
15 medical provider may not bill a child victim, directly or
16 indirectly, for the cost of an initial forensic physical
17 examination.

18 Section 15. Subsection (1) of section 39.311, Florida
19 Statutes, 1998 Supplement, is amended to read:

20 39.311 Establishment of Family Builders Program.--

21 (1) Any Family Builders Program that is established by
22 the department shall provide family preservation services:

23 (a) To families whose children are at risk of imminent
24 out-of-home placement because they are dependent;7

25 (b) To reunite families whose children have been
26 removed and placed in foster care;7and

27 (c) To maintain adoptive families intact who are at
28 risk of fragmentation.

29

30 The Family Builders Program shall provide programs to achieve
31 long-term changes within families that will allow children to

1 remain with their families as an alternative to ~~the more~~
2 ~~expensive and potentially psychologically damaging program of~~
3 out-of-home placement.

4 Section 16. Subsections (1), (5), and (10) of section
5 39.312, Florida Statutes, 1998 Supplement, are amended to
6 read:

7 39.312 Goals.--The goals of any Family Builders
8 Program shall be to:

9 (1) Ensure the protection of the child's ~~child~~ health
10 and safety while working with the family.

11 (5) Assist and educate parents in ~~Perform~~ household
12 maintenance, budgeting, and purchasing when parents are unable
13 to do so on their own or need temporary relief.

14 (10) Provide such additional reasonable services for
15 the prevention of child abuse, abandonment, and neglect
16 ~~maltreatment and unnecessary foster care~~ as may be needed in
17 order to strengthen a family at risk.

18 Section 17. Section 39.313, Florida Statutes, 1998
19 Supplement, is amended to read:

20 39.313 Contracting of services.--The department may
21 contract for the delivery of Family Builders Program services
22 by professionally qualified persons or local governments when
23 it determines that it is in the child's ~~family's~~ best
24 interest. The service provider or program operator must
25 submit to the department monthly activity reports covering any
26 services rendered. These activity reports must include
27 project evaluation in relation to individual families being
28 served, as well as statistical data concerning families
29 referred for services who are not served due to the
30 unavailability of resources. The costs of program evaluation
31

1 are an allowable cost consideration in any service contract
2 negotiated in accordance with this section.

3 Section 18. Section 39.395, Florida Statutes, 1998
4 Supplement, is amended to read:

5 39.395 Detaining a child; medical or hospital
6 personnel.--Any person in charge of a hospital or similar
7 institution, or any physician or licensed health care
8 professional treating a child may detain that child without
9 the consent of the parents,~~caregiver~~, or legal custodian,
10 whether or not additional medical treatment is required, if
11 the circumstances are such, or if the condition of the child
12 is such that returning the child to the care or custody of the
13 parents,~~caregiver~~, or legal custodian presents an imminent
14 danger to the child's life or physical or mental health. Any
15 such person detaining a child shall immediately notify the
16 department, whereupon the department shall immediately begin a
17 child protective investigation in accordance with the
18 provisions of this chapter and shall make every reasonable
19 effort to immediately notify the parents,~~caregiver~~, or legal
20 custodian that such child has been detained. If the
21 department determines, according to the criteria set forth in
22 this chapter, that the child should be detained longer than 24
23 hours, it shall petition the court through the attorney
24 representing the Department of Children and Family Services as
25 quickly as possible and not to exceed 24 hours, for an order
26 authorizing such custody in the same manner as if the child
27 were placed in a shelter. The department shall attempt to
28 avoid the placement of a child in an institution whenever
29 possible.

30
31

1 Section 19. Paragraph (b) of subsection (1), paragraph
2 (a) of subsection (2), and subsection (3) of section 39.401,
3 Florida Statutes, 1998 Supplement, are amended to read:

4 39.401 Taking a child alleged to be dependent into
5 custody; law enforcement officers and authorized agents of the
6 department.--

7 (1) A child may only be taken into custody:

8 (b) By a law enforcement officer, or an authorized
9 agent of the department, if the officer or authorized agent
10 has probable cause to support a finding ~~or reasonable grounds~~
11 ~~for removal and that removal is necessary to protect the~~
12 ~~child. Reasonable grounds for removal are as follows:~~

13 1. That the child has been abused, neglected, or
14 abandoned, or is suffering from or is in imminent danger of
15 illness or injury as a result of abuse, neglect, or
16 abandonment;

17 2. That the parent or, legal custodian, ~~caregiver, or~~
18 ~~responsible adult relative~~ of the child has materially
19 violated a condition of placement imposed by the court; or

20 3. That the child has no parent, legal custodian,
21 ~~caregiver,~~ or responsible adult relative immediately known and
22 available to provide supervision and care.

23 (2) If the law enforcement officer takes the child
24 into custody, that officer shall:

25 (a) Release the child to:

26 1. The parent, ~~caregiver,~~ or legal custodian of the
27 child;

28 2. A responsible adult approved by the court when
29 limited to temporary emergency situations;

30
31

1 3. A responsible adult relative who shall be given
2 priority consideration over a nonrelative placement when this
3 is in the best interests of the child; or

4 4. A responsible adult approved by the department; or

5
6 For cases involving allegations of abandonment, abuse, or
7 neglect, or other dependency cases, within 3 days after such
8 release or within 3 days after delivering the child to an
9 authorized agent of the department, the law enforcement
10 officer who took the child into custody shall make a full
11 written report to the department.

12 (3) If the child is taken into custody by, or is
13 delivered to, an authorized agent of the department, the
14 authorized agent shall review the facts supporting the removal
15 with an attorney representing the department. The purpose of
16 this review shall be to determine whether probable cause
17 exists for the filing of a shelter petition. If the facts are
18 not sufficient to support the filing of a shelter petition,
19 the child shall immediately be returned to the custody of the
20 parent, ~~caregiver,~~ or legal custodian. If the facts are
21 sufficient to support the filing of the shelter petition and
22 the child has not been returned to the custody of the parent
23 or legal custodian, the department shall file the petition and
24 schedule a hearing, and the attorney representing the
25 department of Children and Family Services shall request that
26 a shelter ~~such~~ hearing ~~to~~ be held as quickly as possible, ~~and~~
27 not to exceed 24 hours after the removal of the child. While
28 awaiting the shelter hearing, the authorized agent of the
29 department may place the child in licensed shelter care or may
30 release the child to a parent, ~~legal custodian, caregiver,~~ or
31 responsible adult relative who shall be given priority

1 consideration over a licensed placement, or a responsible
2 adult approved by the department when this is in the best
3 interests of the child. Any placement of a child which is not
4 in a licensed shelter must be preceded by a local and state
5 criminal records check, as well as a search of the
6 department's automated abuse information system, on all
7 members of the household, to assess the child's safety within
8 the home. In addition, the department may authorize placement
9 of a housekeeper/homemaker in the home of a child alleged to
10 be dependent until the parent or legal custodian assumes care
11 of the child.

12 Section 20. Subsections (1), (5), (11), and (15),
13 paragraph (b) of subsection (6), and paragraph (f) of
14 subsection (8) of section 39.402, Florida Statutes, 1998
15 Supplement, are amended to read:

16 39.402 Placement in a shelter.--

17 (1) Unless ordered by the court under this chapter, a
18 child taken into custody shall not be placed in a shelter
19 prior to a court hearing unless there is probable cause to
20 believe that ~~are~~ reasonable grounds for removal exist and
21 removal is necessary to protect the child. Reasonable grounds
22 for removal are as follows:

23 (a) The child has been abused, neglected, or
24 abandoned, or is suffering from or is in imminent danger of
25 illness or injury as a result of abuse, neglect, or
26 abandonment;

27 (b) The parent or legal custodian of the child has
28 materially violated a condition of placement imposed by the
29 court; or
30
31

1 (c) The child has no parent, legal custodian,
2 ~~caregiver~~, or responsible adult relative immediately known and
3 available to provide supervision and care.

4 (5)(a) The parents or legal custodians of the child
5 shall be given such notice as best ensures their actual
6 knowledge ~~notice~~ of the date, time, and location of the
7 shelter hearing. If the parents or legal custodians are
8 outside the jurisdiction of the court, are not known, or
9 cannot be located or refuse or evade service, they shall be
10 given such notice as best ensures their actual knowledge of
11 the date, time, and location of the shelter hearing. The
12 person providing or attempting to provide notice to the
13 parents or legal custodians shall, if the parents or legal
14 custodians are not present at the hearing, advise the court
15 either in person or by sworn affidavit, of the attempts made
16 to provide notice and the results of those attempts.

17 (b) The parents or legal custodians shall be given
18 written notice that:

19 1. They will be given an opportunity to be heard and
20 to present evidence at the shelter hearing; and

21 2. They have the right to be represented by counsel,
22 and, if indigent, the parents have the right to be represented
23 by appointed counsel, at the shelter hearing and at each
24 subsequent hearing or proceeding, pursuant to the procedures
25 set forth in s. 39.013. If the parents or legal custodians
26 appear for the shelter hearing without legal counsel, then, at
27 their request, the shelter hearing may be continued up to 72
28 hours to enable the parents or legal custodians to consult
29 legal counsel. If a continuance is requested by the parents or
30 legal custodians, the child shall be continued in shelter care
31 for the length of the continuance, if granted by the court.

1 (6)

2 (b) The shelter petition filed with the court must
3 address each condition required to be determined by the court
4 in paragraphs (8)(a), ~~and~~ (b), (d), and (f).

5 (8)

6 (f) The order for placement of a child in shelter care
7 must identify the parties present at the hearing and must
8 contain written findings:

9 1. That placement in shelter care is necessary based
10 on the criteria in subsections (1) and (2).

11 2. That placement in shelter care is in the best
12 interest of the child.

13 3. That continuation of the child in the home is
14 contrary to the welfare of the child because the home
15 situation presents a substantial and immediate danger to the
16 child's physical, mental, or emotional health or safety which
17 cannot be mitigated by the provision of preventive services.

18 4. That based upon the allegations of the petition for
19 placement in shelter care, there is probable cause to believe
20 that the child is dependent.

21 5. That the department has made reasonable efforts to
22 prevent or eliminate the need for removal of the child from
23 the home. A finding of reasonable effort by the department to
24 prevent or eliminate the need for removal may be made and the
25 department is deemed to have made reasonable efforts to
26 prevent or eliminate the need for removal if:

27 a. The first contact of the department with the family
28 occurs during an emergency;~~-~~

29 b. The appraisal of the home situation by the
30 department indicates that the home situation presents a
31 substantial and immediate danger to the child's physical,

1 mental, or emotional health or safety which cannot be
2 mitigated by the provision of preventive services;~~;~~

3 c. The child cannot safely remain at home, either
4 because there are no preventive services that can ensure the
5 health and safety of the child or because, even with
6 appropriate and available services being provided, the health
7 and safety of the child cannot be ensured; or~~;~~

8 d. The parent or legal custodian is alleged to have
9 committed any of the acts listed as grounds for expedited
10 termination of parental rights in s. 39.806(1)(f)-(i).

11 6. That the court notified the parents or legal
12 custodians of the time, date, and location of the next
13 dependency hearing ~~subsequent dependency proceedings,~~
14 ~~including scheduled hearings,~~ and of the importance of the
15 active participation of the parents or legal custodians in all
16 ~~those subsequent~~ proceedings and hearings.

17 7. That the court notified the parents or legal
18 custodians of their right to counsel to represent them at the
19 shelter hearing and at each subsequent hearing or proceeding,
20 and the right of the parents to appointed counsel, pursuant to
21 the procedures set forth in s. 39.013.

22 (11) If a child is placed in a shelter pursuant to a
23 court order following a shelter hearing, the court shall
24 require in the ~~prepare a~~ shelter hearing order that requiring
25 the parents of the child, or the guardian of the child's
26 estate, if possessed of assets which under law may be
27 disbursed for the care, support, and maintenance of the child,
28 to pay, to the department or institution having custody of the
29 child, fees as established by the department. When the order
30 affects the guardianship estate, a certified copy of the order
31 shall be delivered to the judge having jurisdiction of the

1 guardianship estate. The shelter order shall also require the
2 parents or legal custodians to provide to the department,
3 within 28 days after entry of the shelter order, the financial
4 information necessary to accurately calculate child support
5 pursuant to s. 61.30.

6 (15) At the conclusion of a shelter hearing, the court
7 shall notify all parties in writing of the next scheduled
8 hearing to review the shelter placement. Such hearing shall be
9 held no later than 30 days after placement of the child in
10 shelter status, in conjunction with the arraignment hearing,
11 and every 15 days thereafter until the child is released from
12 shelter status.

13 Section 21. Subsections (1), (2), (3), (4), (5), and
14 (11) of section 39.407, Florida Statutes, 1998 Supplement, are
15 amended to read:

16 39.407 Medical, psychiatric, and psychological
17 examination and treatment of child; physical or mental
18 examination of parent or person requesting custody of child.--

19 (1) When any child is removed from the home and
20 maintained in an out-of-home placement ~~taken into custody and~~
21 ~~is to be detained in shelter care,~~ the department is
22 authorized to have a medical screening performed on the child
23 without authorization from the court and without consent from
24 a parent or legal custodian. Such medical screening shall be
25 performed by a licensed health care professional and shall be
26 to examine the child for injury, illness, and communicable
27 diseases and to determine the need for immunization. The
28 department shall by rule establish the invasiveness of the
29 medical procedures authorized to be performed under this
30 subsection. In no case does this subsection authorize the
31 department to consent to medical treatment for such children.

1 (2) When the department has performed the medical
2 screening authorized by subsection (1), or when it is
3 otherwise determined by a licensed health care professional
4 that a child who is in an out-of-home placement ~~the custody of~~
5 ~~the department~~, but who has not been committed to the
6 department, is in need of medical treatment, including the
7 need for immunization, consent for medical treatment shall be
8 obtained in the following manner:

9 (a)1. Consent to medical treatment shall be obtained
10 from a parent or legal custodian of the child; or

11 2. A court order for such treatment shall be obtained.

12 (b) If a parent or legal custodian of the child is
13 unavailable and his or her whereabouts cannot be reasonably
14 ascertained, and it is after normal working hours so that a
15 court order cannot reasonably be obtained, an authorized agent
16 of the department shall have the authority to consent to
17 necessary medical treatment, including immunization, for the
18 child. The authority of the department to consent to medical
19 treatment in this circumstance shall be limited to the time
20 reasonably necessary to obtain court authorization.

21 (c) If a parent or legal custodian of the child is
22 available but refuses to consent to the necessary treatment,
23 including immunization, a court order shall be required unless
24 the situation meets the definition of an emergency in s.
25 743.064 or the treatment needed is related to suspected abuse,
26 abandonment, or neglect of the child by a parent, caregiver,
27 or legal custodian. In such case, the department shall have
28 the authority to consent to necessary medical treatment. This
29 authority is limited to the time reasonably necessary to
30 obtain court authorization.

31

1 | In no case shall the department consent to sterilization,
2 | abortion, or termination of life support.

3 | (3) A judge may order a child in an out-of-home
4 | placement ~~the physical custody of the department~~ to be
5 | examined by a licensed health care professional. The judge
6 | may also order such child to be evaluated by a psychiatrist or
7 | a psychologist, by a district school board educational needs
8 | assessment team, or, if a developmental disability is
9 | suspected or alleged, by the developmental disability
10 | diagnostic and evaluation team of the department. If it is
11 | necessary to place a child in a residential facility for such
12 | evaluation, then the criteria and procedure established in s.
13 | 394.463(2) or chapter 393 shall be used, whichever is
14 | applicable. The educational needs assessment provided by the
15 | district school board educational needs assessment team shall
16 | include, but not be limited to, reports of intelligence and
17 | achievement tests, screening for learning disabilities and
18 | other handicaps, and screening for the need for alternative
19 | education as defined in s. 230.23.

20 | (4) A judge may order a child in an out-of-home
21 | placement ~~the physical custody of the department~~ to be treated
22 | by a licensed health care professional based on evidence that
23 | the child should receive treatment. The judge may also order
24 | such child to receive mental health or retardation services
25 | from a psychiatrist, psychologist, or other appropriate
26 | service provider. If it is necessary to place the child in a
27 | residential facility for such services, then the procedures
28 | and criteria established in s. 394.467 or chapter 393 shall be
29 | used, whichever is applicable. A child may be provided mental
30 | health or retardation services in emergency situations,

31 |

1 pursuant to the procedures and criteria contained in s.
2 394.463(1) or chapter 393, whichever is applicable.

3 (5) When a child is in an out-of-home placement ~~the~~
4 ~~physical custody of the department~~, a licensed health care
5 professional shall be immediately called if there are
6 indications of physical injury or illness, or the child shall
7 be taken to the nearest available hospital for emergency care.

8 (11) The parents or legal custodian of a child in an
9 out-of-home placement ~~the physical custody of the department~~
10 remain financially responsible for the cost of medical
11 treatment provided to the child even if either one or both of
12 the parents or if the legal custodian did not consent to the
13 medical treatment. After a hearing, the court may order the
14 parents or legal custodian, if found able to do so, to
15 reimburse the department or other provider of medical services
16 for treatment provided.

17 Section 22. Paragraphs (a) and (d) of subsection (3)
18 and subsection (4) of section 39.501, Florida Statutes, 1998
19 Supplement, are amended to read:

20 39.501 Petition for dependency.--

21 (3)(a) The petition shall be in writing, shall
22 identify and list all parents, if known, and all current
23 ~~caregivers or~~ legal custodians of the child, and shall be
24 signed by the petitioner under oath stating the petitioner's
25 good faith in filing the petition. When the petition is filed
26 by the department, it shall be signed by an attorney for the
27 department.

28 (d) The petitioner must state in the petition, if
29 known, whether:
30
31

1 1. A parent ~~or~~ legal custodian, ~~or caregiver~~ named in
2 the petition has previously unsuccessfully participated in
3 voluntary services offered by the department;

4 2. A parent or legal custodian named in the petition
5 has participated in mediation and whether a mediation
6 agreement exists;

7 3. A parent or legal custodian has rejected the
8 voluntary services offered by the department; or

9 4. The department has determined that voluntary
10 services are not appropriate for this family and the reasons
11 for such determination.

12 (4) When a child has been placed in shelter status by
13 order of the court, a petition alleging dependency must be
14 filed within ~~7 days upon demand of a party, but no later than~~
15 21 days after the shelter hearing, or within 7 days after any
16 party files a demand for the early filing of a dependency
17 petition, whichever comes first. In all other cases, the
18 petition must be filed within a reasonable time after the date
19 the child was referred to protective investigation. The
20 child's parent, ~~guardian,~~ or legal custodian must be served
21 with a copy of the petition at least 72 hours before the
22 arraignment hearing.

23 Section 23. Subsections (1), (4), (8), (10), and (13)
24 of section 39.502, Florida Statutes, 1998 Supplement, are
25 amended to read:

26 39.502 Notice, process, and service.--

27 (1) Unless parental rights have been terminated, all
28 parents ~~and legal custodians~~ must be notified of all
29 proceedings or hearings involving the child. Notice in cases
30 involving shelter hearings and hearings resulting from medical
31 emergencies must be that most likely to result in actual

1 notice to the parents ~~and legal custodians~~. In all other
2 dependency proceedings, notice must be provided in accordance
3 with subsections (4) through (9).

4 (4) The summons shall require the person on whom it is
5 served to appear for a hearing at a time and place specified,
6 not less than 72 ~~24~~ hours after service of the summons. A
7 copy of the petition shall be attached to the summons.

8 (8) It is not necessary to the validity of a
9 proceeding covered by this part that the parents, ~~caregivers,~~
10 ~~or legal custodians~~ be present if their identity or residence
11 is unknown after a diligent search has been made, but in this
12 event the petitioner shall file an affidavit of diligent
13 search prepared by the person who made the search and inquiry,
14 and the court may appoint a guardian ad litem for the child.

15 (10) Service by publication shall not be required for
16 dependency hearings and the failure to serve a party or give
17 notice to a participant shall not affect the validity of an
18 order of adjudication or disposition if the court finds that
19 the petitioner has completed a diligent search for that party
20 ~~or participant~~.

21 (13) Subpoenas may be served within the state by any
22 person over 18 years of age who is not a party to the
23 proceeding and, in addition, may be served by authorized
24 agents of the department or the guardian ad litem.

25 Section 24. Subsections (1) and (6) of section 39.503,
26 Florida Statutes, 1998 Supplement, are amended to read:

27 39.503 Identity or location of parent ~~or legal~~
28 ~~custodian~~ unknown; special procedures.--

29 (1) If the identity or location of a parent ~~or legal~~
30 ~~custodian~~ is unknown and a petition for dependency or shelter
31 is filed, the court shall conduct the following inquiry of the

1 parent or legal custodian who is available, or, if no parent
2 or legal custodian is available, of any relative or custodian
3 of the child who is present at the hearing and likely to have
4 the information:

5 (a) Whether the mother of the child was married at the
6 probable time of conception of the child or at the time of
7 birth of the child.

8 (b) Whether the mother was cohabiting with a male at
9 the probable time of conception of the child.

10 (c) Whether the mother has received payments or
11 promises of support with respect to the child or because of
12 her pregnancy from a man who claims to be the father.

13 (d) Whether the mother has named any man as the father
14 on the birth certificate of the child or in connection with
15 applying for or receiving public assistance.

16 (e) Whether any man has acknowledged or claimed
17 paternity of the child in a jurisdiction in which the mother
18 resided at the time of or since conception of the child, or in
19 which the child has resided or resides.

20 (6) The diligent search required by subsection (5)
21 must include, at a minimum, inquiries of all relatives of the
22 parent or prospective parent made known to the petitioner,
23 inquiries of all offices of program areas of the department
24 likely to have information about the parent or prospective
25 parent, inquiries of other state and federal agencies likely
26 to have information about the parent or prospective parent,
27 inquiries of appropriate utility and postal providers, and
28 inquiries of appropriate law enforcement agencies. Pursuant to
29 s. 453 of the Social Security Act, 42 U.S.C. s. 653(c)~~(B)~~(4),
30 the department, as the state agency administering Titles IV-B
31 and IV-E of the act, shall be provided access to the federal

1 and state parent locator service for diligent search
2 activities.

3 Section 25. Paragraph (a) of subsection (1) and
4 paragraph (a) of subsection (3) of section 39.504, Florida
5 Statutes, 1998 Supplement, are amended to read:

6 39.504 Injunction pending disposition of petition;
7 penalty.--

8 (1)(a) When a petition for shelter placement ~~detention~~
9 or a petition for dependency has been filed or when a child
10 has been taken into custody and reasonable cause, as defined
11 in paragraph (b), exists, the court, upon the request of the
12 department, a law enforcement officer, the state attorney, or
13 other responsible person, or upon its own motion, shall have
14 the authority to issue an injunction to prevent any act of
15 child abuse or any unlawful sexual offense involving a child.

16 (3)(a) In every instance in which an injunction is
17 issued under this section, the purpose of the injunction shall
18 be primarily to protect and promote the best interests of the
19 child, taking the preservation of the child's immediate family
20 into consideration. The effective period of the injunction
21 shall be determined by the court, except that the injunction
22 will expire at the time of the disposition of the petition for
23 shelter placement ~~detention~~ or dependency.

24 Section 26. Section 39.506, Florida Statutes, 1998
25 Supplement, is amended to read:

26 39.506 Arraignment hearings.--

27 (1) When a child has been sheltered ~~detained~~ by order
28 of the court, an arraignment hearing must be held no later
29 than 28 days after the shelter hearing, or, within 7 days
30 after the date of filing of the dependency petition if a
31 demand for early filing has been made by any party, for the

1 parent or legal custodian to admit, deny, or consent to
2 findings of dependency alleged in the petition. If the parent
3 or legal custodian admits or consents to the findings in the
4 petition, the court shall conduct a disposition hearing within
5 15 days after the arraignment hearing ~~proceed as set forth in~~
6 ~~the Florida Rules of Juvenile Procedure~~. However, if the
7 parent or legal custodian denies any of the allegations of the
8 petition, the court shall hold an adjudicatory hearing within
9 30 days after the date of the arraignment hearing unless a
10 continuance is granted pursuant to this chapter.

11 (2) When a child is in the custody of the parent or
12 legal custodian, upon the filing of a petition the clerk shall
13 set a date for an arraignment hearing within a reasonable time
14 after the date of the filing. If the parent or legal custodian
15 admits or consents to an adjudication, the court shall conduct
16 a disposition hearing within 15 days after the arraignment
17 hearing ~~proceed as set forth in the Florida Rules of Juvenile~~
18 ~~Procedure~~. However, if the parent or legal custodian denies
19 any of the allegations of dependency, the court shall hold an
20 adjudicatory hearing within a reasonable time after the date
21 of the arraignment hearing.

22 (3) Failure of a person served with notice to
23 personally respond ~~or~~ appear at the arraignment hearing
24 constitutes the person's consent to a dependency adjudication.
25 The document containing the notice to respond or appear must
26 contain, in type at least as large as the balance of the
27 document, the following or substantially similar language:
28 "FAILURE TO ~~RESPOND TO THIS NOTICE OR TO~~ PERSONALLY APPEAR AT
29 THE ARRAIGNMENT HEARING CONSTITUTES CONSENT TO THE
30 ADJUDICATION OF THIS CHILD (OR CHILDREN) AS A DEPENDENT CHILD
31 (OR CHILDREN) AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF

1 THIS CHILD (OR CHILDREN)." If a person appears for the
2 arraignment hearing and the date, time, and place of the
3 adjudicatory hearing is announced at that arraignment hearing,
4 then that person's failure to appear for the scheduled
5 adjudicatory hearing constitutes consent to a dependency
6 adjudication.

7 (4) At the arraignment hearing, each party shall
8 provide to the court a permanent mailing address. The court
9 shall advise each party that this address will be used by the
10 court and the petitioner for notice purposes unless and until
11 the party notifies the court and the petitioner in writing of
12 a new mailing address.

13 (5) If at the arraignment hearing the parent or legal
14 custodian consents or admits to the allegations in the
15 petition, the court shall proceed to hold a disposition
16 ~~dispositional~~ hearing no more than 15 days after the date of
17 the arraignment hearing unless a continuance is necessary.

18 (6) At any arraignment hearing, if the child is in an
19 out-of-home placement, the court shall order visitation rights
20 absent a clear and convincing showing that visitation is not
21 in the best interest of the child.

22 (7) The court shall review whether the department has
23 made a reasonable effort to prevent or eliminate the need for
24 removal or continued removal of the child from the home. If
25 the court determines that the department has not made such an
26 effort, the court shall order the department to provide
27 appropriate and available services to assure the protection of
28 the child in the home when such services are necessary for the
29 child's physical, mental, or emotional health and safety.

30 (8) At the arraignment hearing, and no more than every
31 15 days thereafter until the child is returned home or a

1 disposition hearing has been conducted, the court shall review
2 the necessity for the child's continued placement in the
3 shelter. The court shall also make a written determination
4 regarding the child's continued placement in shelter within 24
5 hours after any violation of the time requirements for the
6 filing of a petition or prior to the court's granting any
7 continuance as specified in subsection (5).

8 (9) At the conclusion of the arraignment hearing, all
9 parties shall be notified in writing by the court of the date,
10 time, and location for the next scheduled hearing.

11 Section 27. Subsections (2), (5), (6), and (7) of
12 section 39.507, Florida Statutes, 1998 Supplement, are amended
13 to read:

14 39.507 Adjudicatory hearings; orders of
15 adjudication.--

16 (2) All hearings, except as provided in this section,
17 shall be open to the public, and a person may not be excluded
18 except on special order of the judge, who may close any
19 hearing to the public upon determining that the public
20 interest or the welfare of the child is best served by so
21 doing. ~~However,~~The parents shall be allowed to obtain
22 discovery pursuant to the Florida Rules of Juvenile Procedure,
23 provided such discovery does not violate. ~~However, nothing in~~
24 ~~this subsection shall be construed to affect~~ the provisions of
25 s. 39.202. Hearings involving more than one child may be held
26 simultaneously when the children involved are related to each
27 other or were involved in the same case. The child and the
28 parents, caregivers, or legal custodians of the child may be
29 examined separately and apart from each other.

30 (5) If the court finds that the child named in the
31 petition is dependent, but finds that no action other than

1 supervision in the child's home is required, it may enter an
2 order briefly stating the facts upon which its finding is
3 based, but withholding an order of adjudication and placing
4 the child's home under the supervision of the department. If
5 the court later finds that the parents, ~~caregivers,~~ or legal
6 custodians of the child have not complied with the conditions
7 of supervision imposed, the court may, after a hearing to
8 establish the noncompliance, but without further evidence of
9 the state of dependency, enter an order of adjudication and
10 shall thereafter have full authority under this chapter to
11 provide for the child as adjudicated. If the child is to
12 remain in an out-of-home placement by order of the court, the
13 court must adjudicate the child dependent.

14 (6) If the court finds that the child named in a
15 petition is dependent, but chooses not to withhold
16 adjudication or is prohibited from withholding adjudication
17 ~~shall elect not to proceed under subsection (5),~~ it shall
18 incorporate that finding in an order of adjudication entered
19 in the case, briefly stating the facts upon which the finding
20 is made, and the court shall thereafter have full authority
21 under this chapter to provide for the child as adjudicated.

22 (7) At the conclusion of the adjudicatory hearing, if
23 the child named in the petition is found dependent, the court
24 shall schedule the disposition hearing within 30 days after
25 the last day of the adjudicatory hearing ~~the filing of the~~
26 ~~adjudicatory order~~. All parties shall be notified in writing
27 at the conclusion of the adjudicatory hearing by the clerk of
28 the court of the date, time, and location of the disposition
29 hearing.

30 Section 28. Section 39.508, Florida Statutes, 1998
31 Supplement, is amended to read:

1 39.508 Disposition hearings; powers of disposition.--

2 (1) At the disposition hearing, if the court finds
3 that the facts alleged in the petition for dependency were
4 proven in the adjudicatory hearing, or if the parents,
5 ~~caregivers, or legal custodians~~ have consented to the finding
6 of dependency or admitted the allegations in the petition,
7 have failed to appear for the arraignment hearing after proper
8 notice, or have not been located despite a diligent search
9 having been conducted, the court shall receive and consider a
10 case plan and a predisposition study, which must be in writing
11 and presented by an authorized agent of the department.

12 (2) The predisposition study shall cover for any
13 dependent child all factors specified in s. 61.13(3), and must
14 also provide the court with the following documented
15 information:

16 (a) An assessment defining the dangers and risks of
17 returning the child home, including a description of the
18 changes in and resolutions to the initial risks.

19 (b) A description of what risks are still present and
20 what resources are available and will be provided for the
21 protection and safety of the child.

22 (c) A description of the benefits of returning the
23 child home.

24 (d) A description of all unresolved issues.

25 (e) An abuse registry history and criminal records
26 check for all caregivers, family members, and individuals
27 residing within the household.

28 (f) The complete report and recommendation of the
29 child protection team of the Department of Health or, if no
30 report exists, a statement reflecting that no report has been
31 made.

1 (g) All opinions or recommendations from other
2 professionals or agencies that provide evaluative, social,
3 reunification, or other services to the family.

4 (h) The availability of appropriate prevention and
5 reunification services for the family to prevent the removal
6 of the child from the home or to reunify the child with the
7 family after removal, including the availability of family
8 preservation services through the Family Builders Program, the
9 Intensive Crisis Counseling Program, or both.

10 (i) The inappropriateness of other prevention and
11 reunification services that were available.

12 (j) The efforts by the department to prevent
13 out-of-home placement of the child or, when applicable, to
14 reunify the family if appropriate services were available,
15 including the application of intensive family preservation
16 services through the Family Builders Program, the Intensive
17 Crisis Counseling Program, or both.

18 (k) Whether the services were provided to the family
19 and child.

20 (l) If the services were provided, whether they were
21 sufficient to meet the needs of the child and the family and
22 to enable the child to remain safely at home or to be returned
23 home.

24 (m) If the services were not provided, the reasons for
25 such lack of action.

26 (n) The need for, or appropriateness of, continuing
27 the services if the child remains in the custody of the family
28 or if the child is placed outside the home.

29 (o) Whether family mediation was provided.

30 (p) If the child has been removed from the home and
31 there is a parent, ~~caregiver~~, or legal custodian who may be

1 considered for custody pursuant to this section, a
2 recommendation as to whether placement of the child with that
3 parent, ~~caregiver~~, or legal custodian would be detrimental to
4 the child.

5 (q) If the child has been removed from the home and
6 will be remaining with a relative or other adult approved by
7 the court ~~caregiver~~, a home study report concerning the
8 proposed placement shall be included in the predisposition
9 report.

10 (r) If the child has been removed from the home, a
11 determination of the amount of child support each parent will
12 be required to pay pursuant to s. 61.30.

13
14 Any other relevant and material evidence, including other
15 written or oral reports, may be received by the court in its
16 effort to determine the action to be taken with regard to the
17 child and may be relied upon to the extent of its probative
18 value, even though not competent in an adjudicatory hearing.
19 Except as otherwise specifically provided, nothing in this
20 section prohibits the publication of proceedings in a hearing.

21 (3)(a) Prior to recommending to the court any
22 out-of-home placement for a child other than placement in a
23 licensed shelter or foster home, the department shall conduct
24 a study of the home of the proposed legal custodians
25 ~~caregivers~~, which must include, at a minimum:

26 1. An interview with the proposed legal custodians
27 ~~adult caregivers~~ to assess their ongoing commitment and
28 ability to care for the child.

29 2. Records checks through the department's automated
30 abuse information system, and local and statewide criminal and
31 juvenile records checks through the Department of Law

1 Enforcement, on all household members 12 years of age or older
2 and any other persons made known to the department who are
3 frequent visitors in the home.

4 3. An assessment of the physical environment of the
5 home.

6 4. A determination of the financial security of the
7 proposed legal custodians ~~caregivers~~.

8 5. A determination of suitable child care arrangements
9 if the proposed legal custodians ~~caregivers~~ are employed
10 outside of the home.

11 6. Documentation of counseling and information
12 provided to the proposed legal custodians ~~caregivers~~ regarding
13 the dependency process and possible outcomes.

14 7. Documentation that information regarding support
15 services available in the community has been provided to the
16 proposed legal custodians ~~caregivers~~.

17 (b) The department shall not place the child or
18 continue the placement of the child in the home of the
19 proposed legal custodians ~~caregivers~~ if the results of the
20 home study are unfavorable.

21 (4) If placement of the child with anyone other than
22 the child's parent, ~~caregiver, or legal custodian~~ is being
23 considered, the predisposition study shall include the
24 designation of a specific length of time as to when custody by
25 the parent, ~~caregiver, or legal custodian~~ will be
26 reconsidered.

27 (5) The predisposition study may not be made before
28 the adjudication of dependency unless the parents, ~~caregivers,~~
29 ~~or legal custodians~~ of the child consent.

30 (6) A case plan and predisposition study must be filed
31 with the court and served upon the parents, ~~caregivers, or~~

1 ~~legal custodians~~ of the child, provided to the representative
2 of the guardian ad litem program, if the program has been
3 appointed, and provided to all other parties not less than 72
4 hours before the disposition hearing. All such case plans must
5 be approved by the court. If the court does not approve the
6 case plan at the disposition hearing, the court must set a
7 hearing within 30 days after the disposition hearing to review
8 and approve the case plan.

9 (7) The initial judicial review must be held no later
10 than 90 days after the date of the disposition hearing or
11 after the date of the hearing at which the court approves the
12 case plan, whichever occurs earlier, but in no event shall the
13 review be held later than 6 months after the date of the
14 child's removal from the home.

15 (8) When any child is adjudicated by a court to be
16 dependent, and the court finds that removal of the child from
17 the custody of a parent ~~or legal custodian, or caregiver~~ is
18 necessary, the court shall first determine whether there is a
19 parent with whom the child was not residing at the time the
20 events or conditions arose that brought the child within the
21 jurisdiction of the court who desires to assume custody of the
22 child and, if such parent requests custody, the court shall
23 place the child with the parent unless it finds that such
24 placement would endanger the safety, well-being, or physical,
25 mental, or emotional health of the child. Any party with
26 knowledge of the facts may present to the court evidence
27 regarding whether the placement will endanger the safety,
28 well-being, or physical, mental, or emotional health of the
29 child. If the court places the child with such parent, it may
30 do either of the following:

31

1 (a) Order that the parent become the legal and
2 physical custodian of the child. The court may also provide
3 for reasonable visitation by the noncustodial parent. The
4 court may ~~shall~~ then terminate its jurisdiction over the
5 child. The custody order shall continue unless modified by a
6 subsequent order of the juvenile court. The order of the
7 juvenile court shall be filed in any dissolution or other
8 custody action or proceeding between the parents and shall
9 take precedence over other custody and visitation orders
10 entered in those actions.

11 (b) Order that the parent assume custody subject to
12 the jurisdiction of the juvenile court. The court may order
13 that reunification services be provided to the parent,
14 ~~caregiver, or legal custodian~~ from whom the child has been
15 removed, that services be provided solely to the parent who is
16 assuming physical custody in order to allow that parent to
17 retain later custody without court jurisdiction, or that
18 services be provided to both parents, in which case the court
19 shall determine at every review hearing which parent, if
20 either, shall have custody of the child. The standard for
21 changing custody of the child from one parent to another or to
22 a relative or another adult approved by the court shall be the
23 best interest of the child ~~caregiver must meet the home study~~
24 ~~criteria and court approval pursuant to this chapter.~~

25 (9)(a) When any child is adjudicated by a court to be
26 dependent, the court having jurisdiction of the child has the
27 power, by order, to:

28 1. Require the parent, ~~caregiver,~~ or legal custodian,
29 and the child when appropriate, to participate in treatment
30 and services identified as necessary.

31

1 2. Require the parent, ~~caregiver~~, or legal custodian,
2 and the child when appropriate, to participate in mediation if
3 the parent, ~~caregiver~~, or legal custodian refused to
4 participate in mediation.

5 3. Place the child under the protective supervision of
6 an authorized agent of the department, either in the child's
7 own home or, the prospective custodian being willing, in the
8 home of a relative of the child or of another adult ~~a~~
9 ~~caregiver~~ approved by the court, or in some other suitable
10 place under such reasonable conditions as the court may
11 direct. Protective supervision continues until the court
12 terminates it or until the child reaches the age of 18,
13 whichever date is first. Protective supervision shall be
14 terminated by the court whenever the court determines that
15 permanency has been achieved for the child, whether with a
16 parent, another relative, or a legal custodian, ~~or a~~
17 ~~caregiver~~, and that protective supervision is no longer
18 needed. The termination of supervision may be with or without
19 retaining jurisdiction, at the court's discretion, and shall
20 in either case be considered a permanency option for the
21 child. The order terminating supervision by the department
22 shall set forth the powers of the custodian of the child and
23 shall include the powers ordinarily granted to a guardian of
24 the person of a minor unless otherwise specified. Upon the
25 court's termination of supervision by the department, no
26 further judicial reviews are required, so long as permanence
27 has been established for the child.

28 4. Place the child in the temporary legal custody of
29 an adult relative or other adult ~~caregiver~~ approved by the
30 court who is willing to care for the child. The department
31 must supervise this placement until the child reaches

1 permanency status in this home, and in no case for a period of
2 less than 6 months. Permanency in a relative placement shall
3 be by adoption or long-term custody.

4 5.a. When the parents have failed to comply with a
5 case plan and the court determines at a judicial review
6 hearing, or at an adjudication hearing held pursuant to this
7 section, that neither reunification, termination of parental
8 rights, nor adoption is in the best interest of the child, the
9 court may place the child in the long-term custody of an adult
10 relative or other adult ~~caregiver~~ approved by the court
11 willing to care for the child, if all of the following
12 conditions are met:

13 (I) A case plan describing the responsibilities of the
14 relative or other adult ~~caregiver~~, the department, and any
15 other party must have been submitted to the court.

16 (II) The case plan for the child does not include
17 reunification with the parents or adoption by the relative or
18 other adult ~~caregiver~~.

19 (III) The child and the relative or other adult
20 ~~caregiver~~ are determined not to need protective supervision or
21 preventive services to ensure the stability of the long-term
22 custodial relationship, or the department assures the court
23 that protective supervision or preventive services will be
24 provided in order to ensure the stability of the long-term
25 custodial relationship.

26 (IV) Each party to the proceeding agrees that a
27 long-term custodial relationship does not preclude the
28 possibility of the child returning to the custody of the
29 parent at a later date, should the parent demonstrate a
30 material change in circumstances and the return of the child
31 to the parent is in the child's best interest.

1 (V) The court has considered the reasonable preference
2 of the child if the court has found the child to be of
3 sufficient intelligence, understanding, and experience to
4 express a preference.

5 (VI) The court has considered the recommendation of
6 the guardian ad litem if one has been appointed.

7 (VII) The relative or other adult has made a
8 commitment to provide for the child until he or she reaches
9 the age of majority and to prepare the child for adulthood and
10 independence.

11 (VIII) The relative or other adult agrees not to
12 return the child to the physical care and custody of the
13 person from whom the child was removed, including for short
14 visitation periods, without the approval of the court.

15 b. The court shall retain jurisdiction over the case,
16 and the child shall remain in the long-term custody of the
17 relative or other adult ~~caregiver~~ approved by the court until
18 the order creating the long-term custodial relationship is
19 modified by the court. The court shall discontinue regular
20 judicial review hearings and may relieve the department of the
21 responsibility for supervising the placement of the child
22 whenever the court determines that the placement is stable and
23 that such supervision is no longer needed. The child must be
24 in the placement for a minimum of 6 continuous months before
25 the court may consider termination of the department's
26 supervision. Notwithstanding the retention of jurisdiction,
27 the placement shall be considered a permanency option for the
28 child when the court relieves the department of the
29 responsibility for supervising the placement. The order
30 terminating supervision by the department shall set forth the
31 powers of the custodian of the child and shall include the

1 powers ordinarily granted to a guardian of the person of a
2 minor unless otherwise specified. The court may modify the
3 order terminating supervision of the long-term ~~relative or~~
4 ~~caregiver~~ placement if it finds that ~~a party to the proceeding~~
5 ~~has shown a material change in circumstances which causes the~~
6 long-term ~~relative or caregiver~~ placement is to be no longer
7 in the best interest of the child.

8 6.a. Approve placement of the child in long-term
9 out-of-home care, when the following conditions are met:

10 (I) The foster child is 16 years of age or older,
11 unless the court determines that the history or condition of a
12 younger child makes long-term out-of-home care the most
13 appropriate placement.

14 (II) The child demonstrates no desire to be placed in
15 an independent living arrangement pursuant to this subsection.

16 (III) The department's social services study pursuant
17 to part VIII recommends long-term out-of-home care.

18

19 ~~b.~~ Long-term out-of-home care under the above conditions
20 shall not be considered a permanency option.

21 ~~b.c.~~ The court may approve placement of the child in
22 long-term out-of-home care, as a permanency option, when all
23 of the following conditions are met:

24 (I) The child is 14 years of age or older.7

25 (II) The child is living in a licensed home and the
26 foster parents desire to provide care for the child on a
27 permanent basis and the foster parents and the child do not
28 desire adoption.7

29 (III) The foster family has made a commitment to
30 provide for the child until he or she reaches the age of

31

1 majority and to prepare the child for adulthood and
2 independence, ~~and~~

3 (IV) The child has remained in the home for a
4 continuous period of no less than 12 months.

5 (V) The foster parents and the child view one another
6 as family and consider living together as the best place for
7 the child to be on a permanent basis.

8 (VI) The department's social services study recommends
9 such placement and finds the child's well-being has been
10 promoted through living with the foster parents.

11

12 ~~d.~~ Notwithstanding the retention of jurisdiction and
13 supervision by the department, long-term out-of-home care
14 placements made pursuant to this section shall be considered a
15 permanency option for the child. For purposes of this
16 subsection, supervision by the department shall be defined as
17 a minimum of semiannual visits. The order placing the child
18 in long-term out-of-home care as a permanency option shall set
19 forth the powers of the custodian of the child and shall
20 include the powers ordinarily granted to a guardian of the
21 person of a minor unless otherwise specified. The court may
22 modify the permanency option of long-term out-of-home care if
23 it finds that ~~a party to the proceeding has shown a material~~
24 ~~change in circumstances which causes~~ the placement is ~~to be~~ no
25 longer in the best interests of the child.

26 c.e. Approve placement of the child in an independent
27 living arrangement for any ~~foster~~ child 16 years of age or
28 older, if it can be clearly established that this type of
29 alternate care arrangement is the most appropriate plan and
30 that the health, safety, and well-being of the child will not
31 be jeopardized by such an arrangement. While in independent

1 living situations, children whose legal custody has been
2 awarded to the department or a licensed child-caring or
3 child-placing agency, or who have been voluntarily placed with
4 such an agency by a parent, guardian, relative, or adult
5 ~~nonrelative~~ approved by the court, continue to be subject to
6 court review provisions.

7 7. Commit the child to the temporary legal custody of
8 the department. Such commitment invests in the department all
9 rights and responsibilities of a legal custodian. The
10 department shall not return any child to the physical care and
11 custody of the person from whom the child was removed, except
12 for court-approved ~~short~~ visitation periods, without the
13 approval of the court. The term of such commitment continues
14 until terminated by the court or until the child reaches the
15 age of 18. After the child is committed to the temporary
16 custody of the department, all further proceedings under this
17 section are also governed by this chapter.

18 8.a. Change the temporary legal custody or the
19 conditions of protective supervision at a postdisposition
20 hearing ~~subsequent to the initial detention hearing~~, without
21 the necessity of another adjudicatory hearing. A child who has
22 been placed in the child's own home under the protective
23 supervision of an authorized agent of the department, in the
24 home of a relative, in the home of a legal custodian ~~or~~
25 ~~caregiver~~, or in some other place may be brought before the
26 court by the agent of the department who is supervising the
27 placement or by any other interested person, upon the filing
28 of a petition alleging a need for a change in the conditions
29 of protective supervision or the placement. If the parents or
30 other custodians deny the need for a change, the court shall
31 hear all parties in person or by counsel, or both. Upon the

1 admission of a need for a change or after such hearing, the
2 court shall enter an order changing the placement, modifying
3 the conditions of protective supervision, or continuing the
4 conditions of protective supervision as ordered. The standard
5 for changing custody of the child shall be the best interest
6 of the child. If the child is not placed in foster care, then
7 the new placement for the child ~~from one parent to another or~~
8 ~~to a relative or caregiver~~ must meet the home study criteria
9 and court approval pursuant to this chapter.

10 b. In cases where the issue before the court is
11 whether a child should be reunited with a parent, the court
12 shall determine whether the parent has substantially complied
13 with the terms of the case plan to the extent that the safety,
14 well-being, and physical, mental, and emotional health of the
15 child is not endangered by the return of the child to the
16 home.

17 (b) The court shall, in its written order of
18 disposition, include all of the following:

19 1. The placement or custody of the child as provided
20 in paragraph (a).

21 2. Special conditions of placement and visitation.

22 3. Evaluation, counseling, treatment activities, and
23 other actions to be taken by the parties, if ordered.

24 4. The persons or entities responsible for supervising
25 or monitoring services to the child and family.

26 5. Continuation or discharge of the guardian ad litem,
27 as appropriate.

28 6. The date, time, and location of the next scheduled
29 review hearing, which must occur ~~within 90 days after the~~
30 ~~disposition hearing or~~ within the earlier of:

31 a. Ninety days after the disposition hearing;

1 b. Ninety days after the court accepts the case plan;
2 c.a. Six months after the date of the last review
3 hearing; or
4 d.b. Six months after the date of the child's removal
5 from his or her home, if no review hearing has been held since
6 the child's removal from the home.
7 7. Other requirements necessary to protect the health,
8 safety, and well-being of the child, to preserve the stability
9 of the child's educational placement, and to promote family
10 preservation or reunification whenever possible.
11 (c) If the court finds that the prevention or
12 reunification efforts of the department will allow the child
13 to remain safely at home or be safely returned to the home,
14 the court shall allow the child to remain in or return to the
15 home after making a specific finding of fact that the reasons
16 for removal have been remedied to the extent that the child's
17 safety, well-being, and physical, mental, and emotional health
18 will not be endangered.
19 (d) If the court places ~~commits~~ the child in an
20 out-of-home placement ~~to the temporary legal custody of the~~
21 ~~department~~, the disposition order must include a written
22 determination that the child cannot safely remain at home with
23 reunification or family preservation services and that removal
24 of the child is necessary to protect the child. If the child
25 has been removed before the disposition hearing, the order
26 must also include a written determination as to whether, after
27 removal, the department has made a reasonable effort to
28 reunify the family, if reasonable efforts are required.
29 Reasonable efforts to reunify are not required if the court
30 has found that any of the acts listed in s. 39.806(1)(f)-(i)
31

1 have occurred.The department has the burden of demonstrating
2 that it has made reasonable efforts under this paragraph.

3 1. For the purposes of this paragraph, the term
4 "reasonable effort" means the exercise of reasonable diligence
5 and care by the department to provide the services delineated
6 in the case plan.

7 2. In support of its determination as to whether
8 reasonable efforts have been made, the court shall:

9 a. Enter written findings as to whether or not
10 prevention or reunification efforts were indicated.

11 b. If prevention or reunification efforts were
12 indicated, include a brief written description of what
13 appropriate and available prevention and reunification efforts
14 were made.

15 c. Indicate in writing why further efforts could or
16 could not have prevented or shortened the separation of the
17 family.

18 3. A court may find that the department has made a
19 reasonable effort to prevent or eliminate the need for removal
20 if:

21 a. The first contact of the department with the family
22 occurs during an emergency;~~;~~

23 b. The appraisal by the department of the home
24 situation indicates that it presents a substantial and
25 immediate danger to the child's safety or physical, mental, or
26 emotional health which cannot be mitigated by the provision of
27 preventive services;~~;~~

28 c. The child cannot safely remain at home, either
29 because there are no preventive services that can ensure the
30 health and safety of the child or, even with appropriate and
31

1 available services being provided, the health and safety of
2 the child cannot be ensured; or-

3 d. The parent or legal custodian is alleged to have
4 committed any of the acts listed as grounds for expedited
5 termination of parental rights in s. 39.806(1)(f)-(i).

6 4. A reasonable effort by the department for
7 reunification of the family has been made if the appraisal of
8 the home situation by the department indicates that the
9 severity of the conditions of dependency is such that
10 reunification efforts are inappropriate. The department has
11 the burden of demonstrating to the court that reunification
12 efforts were inappropriate.

13 5. If the court finds that the prevention or
14 reunification effort of the department would not have
15 permitted the child to remain safely at home, the court may
16 commit the child to the temporary legal custody of the
17 department or take any other action authorized by this
18 chapter.

19 (10)(a) When any child is adjudicated by the court to
20 be dependent and temporary legal custody of the child has been
21 placed with an adult relative, legal custodian, or other adult
22 ~~caregiver~~ approved by the court, a licensed child-caring
23 agency, or the department, the court shall, unless a parent
24 has voluntarily executed a written surrender for purposes of
25 adoption, order the parents, or the guardian of the child's
26 estate if possessed of assets which under law may be disbursed
27 for the care, support, and maintenance of the child, to pay
28 child support to the ~~adult relative, legal custodian, or~~
29 ~~caregiver~~ caring for the child, the licensed child-caring
30 agency, or the department. The court may exercise jurisdiction
31 over all child support matters, shall adjudicate the financial

1 obligation, including health insurance, of the child's parents
2 or guardian, and shall enforce the financial obligation as
3 provided in chapter 61. The state's child support enforcement
4 agency shall enforce child support orders under this section
5 in the same manner as child support orders under chapter 61.

6 (b) Placement of the child pursuant to subsection (8)
7 shall not be contingent upon issuance of a support order.

8 (11)(a) If the court does not commit the child to the
9 temporary legal custody of an adult relative, legal custodian,
10 or other adult ~~caregiver~~ approved by the court, the
11 disposition order shall include the reasons for such a
12 decision and shall include a determination as to whether
13 diligent efforts were made by the department to locate an
14 adult relative, legal custodian, or other adult ~~caregiver~~
15 willing to care for the child in order to present that
16 placement option to the court instead of placement with the
17 department.

18 (b) If diligent efforts are made to locate an adult
19 relative willing and able to care for the child but, because
20 no suitable relative is found, the child is placed with the
21 department or a legal custodian or other adult approved by the
22 court ~~caregiver~~, both the department and the court shall
23 consider transferring temporary legal custody to an adult
24 relative approved by the court at a later date, but neither
25 the department nor the court is obligated to so place the
26 child if it is in the child's best interest to remain in the
27 current placement. For the purposes of this paragraph,
28 "diligent efforts to locate an adult relative" means a search
29 similar to the diligent search for a parent, but without the
30 continuing obligation to search after an initial adequate
31 search is completed.

1 (12) An agency granted legal custody shall have the
2 right to determine where and with whom the child shall live,
3 but an individual granted legal custody shall exercise all
4 rights and duties personally unless otherwise ordered by the
5 court.

6 (13) In carrying out the provisions of this chapter,
7 the court may order the ~~natural~~ parents, ~~caregivers~~, or legal
8 custodians of a child who is found to be dependent to
9 participate in family counseling and other professional
10 counseling activities deemed necessary for the rehabilitation
11 of the child.

12 (14) With respect to a child who is the subject in
13 proceedings under this chapter, the court shall issue to the
14 department an order to show cause why it should not return the
15 child to the custody of the ~~natural~~ parents, ~~legal custodians~~,
16 ~~or caregivers~~ upon expiration of the case plan, or sooner if
17 the parents, ~~legal custodians~~, or ~~caregivers~~ have
18 substantially complied with the case plan.

19 (15) The court may ~~at any time~~ enter an order ending
20 its jurisdiction over a ~~any~~ child, ~~except that~~, when a child
21 has been returned to the parents ~~under subsection (14)~~,
22 provided the court shall not terminate its jurisdiction or the
23 department's supervision over the child until 6 months after
24 the child's return. ~~Based on a report of the department or~~
25 ~~agency or the child's guardian ad litem, and any other~~
26 ~~relevant factors~~, The court shall ~~then~~ determine whether its
27 jurisdiction should be continued or terminated in such a case
28 based on a report of the department or agency or the child's
29 guardian ad litem, and any other relevant factors; if its
30 jurisdiction is to be terminated, the court shall enter an
31 order to that effect.

1 Section 29. Paragraphs (a) and (d) of subsection (2)
2 of section 39.5085, Florida Statutes, 1998 Supplement, are
3 amended to read:

4 39.5085 Relative Caregiver Program.--

5 (2)(a) The Department of Children and Family Services
6 shall establish and operate the Relative Caregiver Program
7 pursuant to eligibility guidelines established in this section
8 as further implemented by rule of the department. The Relative
9 Caregiver Program shall, within the limits of available
10 funding, provide financial assistance to relatives who are
11 within the fifth degree by blood or marriage to the parent or
12 stepparent of a child and who are caring full-time for that
13 child in the role of substitute parent as a result of a
14 court's ~~departmental~~ determination of child abuse, neglect, or
15 abandonment and subsequent placement with the relative
16 pursuant to this chapter. Such placement may be either
17 court-ordered temporary legal custody to the relative pursuant
18 to s. 39.508(9)(a)4., or court-ordered placement in the home
19 of a relative under protective supervision of the department
20 pursuant to s. 39.508(9)(a)3. The Relative Caregiver Program
21 shall offer financial assistance to caregivers who are
22 relatives and who would be unable to serve in that capacity
23 without the relative caregiver payment because of financial
24 burden, thus exposing the child to the trauma of placement in
25 a shelter or in foster care.

26 (d) Relatives who are caring for children placed with
27 them by the court pursuant to this chapter ~~child protection~~
28 ~~system~~ shall receive a special monthly relative caregiver
29 benefit established by rule of the department. The amount of
30 the special benefit payment shall be based on the child's age
31 within a payment schedule established by rule of the

1 department and subject to availability of funding. The
2 statewide average monthly rate for children judicially placed
3 with relatives who are not licensed as foster homes may not
4 exceed 82 percent of the statewide average foster care rate,
5 nor may the cost of providing the assistance described in this
6 section to any relative caregiver exceed the cost of providing
7 out-of-home care in emergency shelter or foster care.

8 Section 30. Section 39.509, Florida Statutes, 1998
9 Supplement, is amended to read:

10 39.509 Grandparents rights.--Notwithstanding any other
11 provision of law, a maternal or paternal grandparent as well
12 as a stepgrandparent is entitled to reasonable visitation with
13 his or her grandchild who has been adjudicated a dependent
14 child and taken from the physical custody of the parent,
15 ~~custodian, legal guardian, or caregiver~~ unless the court finds
16 that such visitation is not in the best interest of the child
17 or that such visitation would interfere with the goals of the
18 case plan. Reasonable visitation may be unsupervised and,
19 where appropriate and feasible, may be frequent and
20 continuing.

21 (1) Grandparent visitation may take place in the home
22 of the grandparent unless there is a compelling reason for
23 denying such a visitation. The department's caseworker shall
24 arrange the visitation to which a grandparent is entitled
25 pursuant to this section. The state shall not charge a fee
26 for any costs associated with arranging the visitation.
27 However, the grandparent shall pay for the child's cost of
28 transportation when the visitation is to take place in the
29 grandparent's home. The caseworker shall document the reasons
30 for any decision to restrict a grandparent's visitation.

31

1 (2) A grandparent entitled to visitation pursuant to
2 this section shall not be restricted from appropriate displays
3 of affection to the child, such as appropriately hugging or
4 kissing his or her grandchild. Gifts, cards, and letters from
5 the grandparent and other family members shall not be denied
6 to a child who has been adjudicated a dependent child.

7 (3) Any attempt by a grandparent to facilitate a
8 meeting between the child who has been adjudicated a dependent
9 child and the child's parent or legal,~~custodian~~ or any other
10 ~~person, legal guardian, or caregiver~~ in violation of a court
11 order shall automatically terminate future visitation rights
12 of the grandparent.

13 (4) When the child has been returned to the physical
14 custody of his or her parent or legal ~~permanent~~ custodian,
15 ~~legal guardian, or caregiver~~, the visitation rights granted
16 pursuant to this section shall terminate.

17 (5) The termination of parental rights does not affect
18 the rights of grandparents unless the court finds that such
19 visitation is not in the best interest of the child or that
20 such visitation would interfere with the goals of permanency
21 planning for the child.

22 (6) In determining whether grandparental visitation is
23 not in the child's best interest, consideration may be given
24 to the finding of guilt, regardless of adjudication, or entry
25 or plea of guilty or nolo contendere to charges under the
26 following statutes, or similar statutes of other
27 jurisdictions: s. 787.04, relating to removing minors from
28 the state or concealing minors contrary to court order; s.
29 794.011, relating to sexual battery; s. 798.02, relating to
30 lewd and lascivious behavior; chapter 800, relating to
31 lewdness and indecent exposure; or chapter 827, relating to

1 the abuse of children. Consideration may also be given to a
2 report finding of ~~confirmed~~ abuse, abandonment, or neglect
3 under ss. 415.101-415.113 or this chapter and the outcome of
4 the investigation concerning such report.

5 Section 31. Subsections (1) and (2) of section 39.510,
6 Florida Statutes, 1998 Supplement, are amended to read:

7 39.510 Appeal.--

8 (1) Any ~~child, parent, guardian ad litem, caregiver,~~
9 ~~or legal custodian of any child, any other~~ party to the
10 proceeding who is affected by an order of the court, or the
11 department may appeal to the appropriate district court of
12 appeal within the time and in the manner prescribed by the
13 Florida Rules of Appellate Procedure. Appointed counsel shall
14 be compensated as provided in this chapter.

15 (2) When the notice of appeal is filed in the circuit
16 court by a party other than the department, an attorney for
17 the department shall represent the state and the court upon
18 appeal and shall be notified of the appeal by the clerk ~~when~~
19 ~~the notice of appeal is filed in the circuit court by a party~~
20 ~~other than the department~~.

21 Section 32. Section 39.601, Florida Statutes, 1998
22 Supplement, is amended to read:

23 39.601 Case plan requirements.--

24 (1) The department or agent of the department shall
25 develop a case plan for each child or child's family receiving
26 services pursuant to this chapter. A parent, ~~caregiver,~~ or
27 legal custodian of a child may not be required nor coerced
28 through threat of loss of custody or parental rights to admit
29 in the case plan to abusing, neglecting, or abandoning a
30 child. Where dependency mediation services are available and
31 appropriate to the best interests of the child, the court may

1 refer the case to mediation for development of a case plan.

2 This section does not change the provisions of s. 39.807.

3 (a) The case plan must be developed in conference with
4 the parent and, ~~caregiver, or~~ legal custodian of the child and
5 any court-appointed guardian ad litem and, if appropriate, the
6 child.

7 (b) The case plan must be written simply and clearly
8 in English and, if English is not the principal language of
9 the child's parent, ~~caregiver, or legal custodian~~, to the
10 extent possible in such principal language.

11 (c) The case plan must describe the minimum number of
12 face-to-face meetings to be held each month between the
13 parents, ~~caregivers, or legal custodians~~ and the department's
14 caseworkers to review progress of the plan, to eliminate
15 barriers to progress, and to resolve conflicts or
16 disagreements.

17 (d) The case plan must be subject to modification
18 based on changing circumstances.

19 (e) The case plan must be signed by all parties.

20 (f) The case plan must be reasonable, accurate, and in
21 compliance with the requirements of other court orders.

22 (2) When the child or family is receiving services,
23 the case plan must include, in addition to the requirements in
24 subsection (1), at a minimum:

25 (a) A description of the problem being addressed that
26 includes the behavior or act of a parent or ~~legal custodian~~
27 ~~or caregiver~~ resulting in risk to the child and the reason for
28 the department's intervention.

29 (b) A description of the tasks with which the parent
30 must comply and the services to be provided to the family and
31

1 child specifically addressing the identified problem,
2 including:
3 1. Type of services or treatment.
4 2. Frequency of services or treatment.
5 3. Location of the delivery of the services.
6 4. The accountable department staff or service
7 provider.
8 (c) A description of the measurable objectives,
9 including timeframes for achieving objectives, addressing the
10 identified problem.
11 (3) When the child is receiving services in an
12 out-of-home ~~a placement outside the child's home or in foster~~
13 ~~care~~, the case plan must be filed with ~~submitted to~~ the court,
14 for approval by the court at the disposition hearing, and
15 served on all parties whose whereabouts are known at least 72
16 hours prior to the disposition hearing, and must include, in
17 addition to the requirements in subsections (1) and (2), at a
18 minimum:
19 (a) A description of the permanency goal for the
20 child, including the type of placement. Reasonable efforts to
21 place a child in a home that will serve as an adoptive
22 placement if reunification is not successful, ~~for adoption~~ or
23 with a legal guardian, may be made concurrently with
24 reasonable efforts to prevent removal of the child from the
25 home or make it possible for the child to return safely home.
26 (b) A description of the type of home or institution
27 in which the child is to be placed.
28 (c) A description of the financial support obligation
29 to the child, including health insurance, of the child's
30 ~~parent, parents, caregiver, or legal custodian.~~
31

1 (d) A description of the visitation rights and
2 obligations of the ~~parent or parents, caregiver, or legal~~
3 ~~custodian~~ during the period the child is in care.

4 (e) A discussion of the safety and appropriateness of
5 the child's placement, which placement is intended to be safe,
6 the least restrictive and most family-like setting available
7 consistent with the best interest and special needs of the
8 child, and in as close proximity as possible to the child's
9 home. The plan must also establish the role for the foster
10 parents or legal custodians in the development of the services
11 which are to be provided to the child, foster parents, or
12 legal custodians. It must also address the child's need for
13 services while under the jurisdiction of the court and
14 implementation of these services in the case plan.

15 (f) A description of the efforts to be undertaken to
16 maintain the stability of the child's educational placement.

17 (g) A discussion of the department's plans to carry
18 out the judicial determination made by the court, with respect
19 to the child, in accordance with this chapter and applicable
20 federal regulations.

21 (h) A description of the plan for assuring that
22 services outlined in the case plan are provided to the child
23 and the child's parent or parents, ~~legal custodians, or~~
24 ~~caregivers~~, to improve the conditions in the family home and
25 facilitate either the safe return of the child to the home or
26 the permanent placement of the child.

27 (i) A description of the plan for assuring that
28 services as outlined in the case plan are provided to the
29 child, and the child's ~~parent or parents,~~ and the child's
30 legal custodians, ~~or caregivers~~, to address the needs of the
31

1 child, and a discussion of the appropriateness of the
2 services.

3 (j) A description of the plan for assuring that
4 services are provided to the child and the child's legal
5 custodians ~~foster parents~~ to address the needs of the child
6 while in an out-of-home placement ~~foster care~~, which shall
7 include an itemized list of costs to be borne by the parent ~~or~~
8 ~~caregiver~~ associated with any services or treatment that the
9 parent and child are expected to receive.

10 (k) A written notice to the parent that failure of the
11 parent to substantially comply with the case plan may result
12 in the termination of parental rights, and that a material
13 failure to substantially comply may result in the filing of a
14 petition for termination of parental rights sooner than the
15 compliance periods set forth in the case plan itself. The case
16 staffing committee shall coordinate its efforts with the child
17 protection team of the Department of Health.

18 (l) In the case of a child for whom the permanency
19 plan is adoption or placement in another permanent home,
20 documentation of the steps the agency is taking to find an
21 adoptive family or other permanent living arrangement for the
22 child, to place the child with an adoptive family, with a fit
23 and willing relative, with a legal guardian, or in another
24 planned permanent living arrangement, and to finalize the
25 adoption or legal guardianship. At a minimum, such
26 documentation shall include child-specific recruitment efforts
27 such as the use of state, regional, and national adoption
28 exchanges, including electronic exchange systems.

29 (4) In the event that the parents, ~~legal custodians,~~
30 ~~or caregivers~~ are unwilling or unable to participate in the
31 development of a case plan, the department shall document that

1 unwillingness or inability to participate. Such documentation
2 must be provided in writing to the parent, ~~legal custodians,~~
3 ~~or caregivers~~ when available for the court record, and then
4 the department shall prepare a case plan conforming as nearly
5 as possible with the requirements set forth in this section.
6 The unwillingness or inability of the parents, ~~legal~~
7 ~~custodians, or caregivers~~ to participate in the development of
8 a case plan shall not in itself bar the filing of a petition
9 for dependency or for termination of parental rights. The
10 parents, ~~legal custodians, or caregivers,~~ if available, must
11 be provided a copy of the case plan and be advised that they
12 may, at any time prior to the filing of a petition for
13 termination of parental rights, enter into a case plan and
14 that they may request judicial review of any provision of the
15 case plan with which they disagree at any court review hearing
16 set for the child.

17 (5) The services delineated in the case plan must be
18 designed either to improve the conditions in the family home
19 and aid in maintaining the child in the home, to facilitate
20 the safe return of the child to the family home, or to
21 facilitate the permanent placement of the child. The service
22 intervention must be the least intrusive possible into the
23 life of the family, must focus on clearly defined objectives,
24 and must provide the most efficient path to quick
25 reunification or permanent placement, with the child's health
26 and safety being paramount. To the extent possible, the
27 service intervention must be grounded in outcome evaluation
28 results that demonstrate success in the reunification or
29 permanent placement process. In designing service
30 interventions, generally recognized standards of the

31

1 professions involved in the process must be taken into
2 consideration.

3 (6) After jurisdiction attaches, all case plans must
4 be filed with the court and a copy provided to all the
5 ~~parents, caregivers, or legal custodians of the child, to the~~
6 ~~representative of the guardian ad litem program if the program~~
7 ~~has been appointed, and to all other parties~~ whose whereabouts
8 are known, not less than 72 hours before the disposition
9 hearing. ~~All such case plans must be approved by the court.~~
10 The department shall also file with the court all case plans
11 prepared before jurisdiction of the court attached. If, after
12 review of the case plan, the court does not approve ~~accept~~ the
13 case plan, the court shall require the parties to make
14 necessary modifications to the plan. An amended plan must be
15 submitted to the court for review and approval within 30 days
16 after the hearing on the case plan. This amended plan must be
17 served on all parties whose whereabouts are known, at least 72
18 hours prior to filing with the court.

19 (7) The case plan must be limited to as short a period
20 as possible for the accomplishment of its provisions. Unless
21 extended, the plan expires no later than 12 months after the
22 date the child was initially removed from the home or the date
23 the case plan was accepted by the court, whichever comes
24 first.

25 (8) The case plan must meet applicable federal and
26 state requirements.

27 (9)(a) In each case in which the custody of a child
28 has been vested, either voluntarily or involuntarily, in the
29 department and the child has been placed in out-of-home care,
30 a case plan must be prepared within 60 days after the
31 department removes the child from the home, and shall be

1 submitted to the court before the disposition hearing, for the
2 court to review and approve ~~accept~~. If the preparation of a
3 case plan, in conference with the parents and other pertinent
4 parties, cannot be completed before the disposition hearing,
5 for good cause shown, the court may grant an extension not to
6 exceed 30 days and set a hearing to review and approve ~~accept~~
7 the case plan.

8 (b) The parent or parents, and legal custodians, ~~or~~
9 ~~caregivers~~ may receive assistance from any person or social
10 service agency in the preparation of the case plan.

11 (c) The social service agency, the department, and the
12 court, when applicable, shall inform the parent or parents,
13 and legal custodians, ~~or caregivers~~ of the right to receive
14 such assistance, including the right to assistance of counsel.

15 (d) Before the signing of the case plan, the
16 authorized agent of the department shall explain it to all
17 persons involved in its implementation, including, when
18 appropriate, the child.

19 (e) After the case plan has been agreed upon and
20 signed by the parties involved, a copy of the plan must be
21 given immediately to the parents, the department or agency,
22 the foster parents ~~or caregivers~~, the legal custodian, ~~the~~
23 ~~caregiver~~, the representative of the guardian ad litem program
24 if the program is appointed, and any other parties identified
25 by the court, including the child, if appropriate.

26 (f) The case plan may be amended at any time if all
27 parties are in agreement regarding the revisions to the plan
28 and the plan is submitted to the court with a memorandum of
29 explanation, if the court approves such amendment. The case
30 plan may also be amended by the court or upon motion of any
31 party at a hearing, based on competent evidence demonstrating

1 the need for the amendment. A copy of the amended plan must be
2 immediately given to the persons ~~parties~~ specified in
3 paragraph (e).

4 (10) A case plan must be prepared, but need not be
5 submitted to the court, for a child who will be in care no
6 longer than 30 days unless that child is placed in out-of-home
7 care a second time within a 12-month period.

8 Section 33. Subsection (1) and paragraph (a) of
9 subsection (4) of section 39.602, Florida Statutes, 1998
10 Supplement, are amended to read:

11 39.602 Case planning when parents, legal custodians,
12 or caregivers do not participate and the child is in
13 out-of-home care.--

14 (1) In the event the parents, ~~legal custodians, or~~
15 ~~caregivers~~ will not or cannot participate in preparation of a
16 case plan, the department shall submit a full explanation of
17 the circumstances and state the nature of its efforts to
18 secure such persons' participation in the preparation of a
19 case plan.

20 (4)(a) At least 72 hours prior to the hearing in which
21 the court will consider approval of the case plan ~~filing of a~~
22 ~~plan~~, all parties must be provided with a copy of the plan
23 developed by the department. If the location of one or both
24 parents is unknown, this must be documented in writing and
25 included in the plan submitted to the court. After the filing
26 of the plan, if the location of an absent parent becomes
27 known, that parent must be served with a copy of the plan.

28 Section 34. Subsections (2) and (3) of section 39.603,
29 Florida Statutes, 1998 Supplement, are amended to read:

30 39.603 Court approvals of case planning.--

31

1 (2) When the court determines that any of the elements
2 considered at the hearing related to the plan have not been
3 met, the court shall require the parties to make necessary
4 amendments to the plan. The amended plan must be submitted to
5 the court for review and approval within 30 days after the
6 hearing ~~a time certain specified by the court~~. A copy of the
7 amended plan must also be provided to each party parent, if
8 the location of the party parent is known, at least 72 hours
9 prior to filing with the court.

10 (3) A parent who has not participated in the
11 development of a case plan must be served with a copy of the
12 plan developed by the department, if the parent can be
13 located, at least 72 ~~48~~ hours prior to the court hearing. Any
14 parent is entitled to, and may seek, a court review of the
15 plan prior to the initial judicial review and must be informed
16 of this right by the department at the time the department
17 serves the parent with a copy of the plan. If the location of
18 an absent parent becomes known to the department, the
19 department shall inform the parent of the right to a court
20 review at the time the department serves the parent with a
21 copy of the case plan.

22 Section 35. Section 39.701, Florida Statutes, 1998
23 Supplement, is amended to read:

24 39.701 Judicial review.--

25 (1)(a) The court shall have continuing jurisdiction in
26 accordance with this section and shall review the status of
27 the child at least every 6 months as required by this
28 subsection or more frequently if the court deems it necessary
29 or desirable.

30 (b) The court shall retain jurisdiction over a child
31 returned to his or her ~~its~~ parents, ~~caregivers, or legal~~

1 ~~guardians~~ for a minimum period of 6 months following the
2 reunification, but, at that time, based on a report of the
3 social service agency and the guardian ad litem, if one has
4 been appointed, and any other relevant factors, the court
5 shall make a determination as to whether supervision by the
6 department and the court's ~~its~~ jurisdiction shall continue or
7 be terminated.

8 (2)(a) The court shall review the status of the child
9 and shall hold a hearing as provided in this part at least
10 every 6 months until the child reaches permanency status. The
11 court may dispense with the attendance of the child at the
12 hearing, but may not dispense with the hearing or the presence
13 of other parties to the review unless before the review a
14 hearing is held before a citizen review panel.

15 (b) Citizen review panels may conduct hearings to
16 review the status of a child. The court shall select the cases
17 appropriate for referral to the citizen review panels and may
18 order the attendance of the parties at the review panel
19 hearings. However, any party may object to the referral of a
20 case to a citizen review panel. Whenever such an objection has
21 been filed with the court, the court shall review the
22 substance of the objection and may conduct the review itself
23 or refer the review to a citizen review panel. All parties
24 retain the right to take exception to the findings or
25 recommended orders of a citizen review panel in accordance
26 with Rule 1.490(h), Florida Rules of Civil Procedure.

27 (c) Notice of a hearing by a citizen review panel must
28 be provided as set forth in subsection (5). At the conclusion
29 of a citizen review panel hearing, each party may propose a
30 recommended order to the chairperson of the panel. Thereafter,
31 the citizen review panel shall submit its report, copies of

1 the proposed recommended orders, and a copy of the panel's
2 recommended order to the court. The citizen review panel's
3 recommended order must be limited to the dispositional options
4 available to the court in subsection (8). Each party may file
5 exceptions to the report and recommended order of the citizen
6 review panel in accordance with Rule 1.490, Florida Rules of
7 Civil Procedure.

8 (3)(a) The initial judicial review hearing must be
9 held no later than 90 days after the date of the disposition
10 hearing or after the date of the hearing at which the court
11 approves the case plan, whichever comes first, but in no event
12 shall the review be held later than 6 months after the date
13 the child was removed from the home. Citizen review panels
14 shall not conduct more than two consecutive reviews without
15 the child and the parties coming before the court for a
16 judicial review.

17 (b) If the citizen review panel recommends extending
18 ~~court extends~~ any case plan beyond 12 months, the court must
19 schedule a judicial review hearing to be conducted by the
20 court within 30 days after receiving the recommendation from
21 the citizen review panel ~~judicial reviews must be held at~~
22 ~~least every 6 months.~~

23 (c) If the child is placed in the custody of the
24 department or a licensed child-placing agency for the purpose
25 of adoptive placement, judicial reviews must be held at least
26 every 6 months until the adoption is finalized ~~adoptive~~
27 ~~placement, to determine the appropriateness of the current~~
28 ~~placement and the progress made toward adoptive placement.~~

29 (d) If the department and the court have established a
30 formal agreement that includes specific authorization for
31 particular cases, the department may conduct administrative

1 reviews instead of the judicial reviews for children in
2 out-of-home care. Notices of such administrative reviews must
3 be provided to all parties. However, an administrative review
4 may not be substituted for the first judicial review, and in
5 every case the court must conduct a judicial review at least
6 every 6 months. Any party dissatisfied with the results of an
7 administrative review may petition for a judicial review.

8 (e) The clerk of the circuit court shall schedule
9 judicial review hearings in order to comply with the mandated
10 times cited in this section.

11 (f) In each case in which a child has been voluntarily
12 placed with the licensed child-placing agency, the agency
13 shall notify the clerk of the court in the circuit where the
14 child resides of such placement within 5 working days.

15 Notification of the court is not required for any child who
16 will be in out-of-home care no longer than 30 days unless that
17 child is placed in out-of-home care a second time within a
18 12-month period. If the child is returned to the custody of
19 the parents, ~~caregiver,~~ or legal custodian before the
20 scheduled review hearing or if the child is placed for
21 adoption, the child-placing agency shall notify the court of
22 the child's return or placement within 5 working days, and the
23 clerk of the court shall cancel the review hearing.

24 (4) The court shall schedule the date, time, and
25 location of the next judicial review during the judicial
26 review hearing and shall list same in the judicial review
27 order.

28 (5) Notice of a judicial review hearing or a citizen
29 review panel hearing, and a copy of the motion for judicial
30 review, if any ~~including a statement of the dispositional~~
31

1 ~~alternatives available to the court~~, must be served by the
2 clerk of the court upon:

3 (a) The social service agency charged with the
4 supervision of care, custody, or guardianship of the child, if
5 that agency is not the movant.

6 (b) The foster parent or legal custodian ~~parents or~~
7 ~~caregivers~~ in whose home the child resides.

8 (c) The parents ~~parent, caregiver, or legal custodian~~
9 ~~from whom the care and custody of the child have been~~
10 ~~transferred~~.

11 (d) The guardian ad litem for the child, or the
12 representative of the guardian ad litem program if the program
13 has been appointed.

14 (e) Any preadoptive parent.

15 (f) Such other persons as the court may in its
16 discretion direct.

17
18 Service of notice is not required on any of the persons listed
19 in paragraphs (a)-(f) if the person was present at the
20 previous hearing during which the date, time, and location of
21 the hearing was announced.

22 (6)(a) Prior to every judicial review hearing or
23 citizen review panel hearing, the social service agency shall
24 make an investigation and social study concerning all
25 pertinent details relating to the child and shall furnish to
26 the court or citizen review panel a written report that
27 includes, but is not limited to:

28 1. A description of the type of placement the child is
29 in at the time of the hearing, including the safety of the
30 child and the continuing necessity for and appropriateness of
31 the placement.

- 1 2. Documentation of the diligent efforts made by all
2 parties to the case plan to comply with each applicable
3 provision of the plan.
- 4 3. The amount of fees assessed and collected during
5 the period of time being reported.
- 6 4. The services provided to the foster family or legal
7 custodian ~~caregivers~~ in an effort to address the needs of the
8 child as indicated in the case plan.
- 9 5. A statement that either:
- 10 a. The parent ~~or legal custodian~~, though able to do
11 so, did not comply substantially with the provisions of the
12 case plan, and the agency recommendations; ~~or~~
- 13 b. ~~A statement that~~ The parent ~~or legal custodian~~ did
14 substantially comply with the such provisions of the case
15 plan; or
- 16 c. The parent has partially complied with the
17 provisions of the case plan, with a summary of additional
18 progress needed and the agency recommendations.
- 19 6. A statement from the foster parent or legal
20 custodian ~~parents or caregivers~~ providing any material
21 evidence concerning the return of the child to the parent or
22 parents ~~or legal custodians~~.
- 23 7. A statement concerning the frequency, duration, and
24 results of the parent-child visitation, if any, and the agency
25 recommendations for an expansion or restriction of future
26 visitation.
- 27 8. The number of times a child has been removed from
28 his or her home and placed elsewhere, the number and types of
29 placements that have occurred, and the reason for the changes
30 in placement.
- 31

1 9. The number of times a child's educational placement
2 has been changed, the number and types of educational
3 placements which have occurred, and the reason for any change
4 in placement.

5 10. Copies of all medical, psychological, and
6 educational records that support the terms of the case plan
7 and that have been produced concerning the child or parents
8 since the last judicial review hearing.

9 (b) A copy of the social service agency's written
10 report and the written report of the guardian ad litem must be
11 provided to the attorney of record of the ~~parent, parents, or~~
12 ~~legal custodians~~; to the ~~parent, parents, or legal custodians~~;
13 to the foster parents or legal custodians ~~caregivers~~; to each
14 citizen review panel; and to the guardian ad litem for the
15 child, or the representative of the guardian ad litem program
16 if the program has been appointed by the court, at least 72 ~~48~~
17 hours before the judicial review hearing, or citizen review
18 panel hearing. The requirement for providing parents ~~or legal~~
19 ~~custodians~~ with a copy of the written report does not apply to
20 those parents ~~or legal custodians~~ who have voluntarily
21 surrendered their child for adoption or who have had their
22 parental rights to the child terminated.

23 (c) In a case in which the child has been permanently
24 placed with the social service agency, the agency shall
25 furnish to the court a written report concerning the progress
26 being made to place the child for adoption. If the child
27 cannot be placed for adoption, a report on the progress made
28 by the child towards ~~in~~ alternative permanency goals or
29 placements, including, but not limited to, long-term foster
30 care, independent living, custody to a relative or other adult
31 ~~caregiver~~ approved by the court on a permanent basis with or

1 without legal guardianship, or custody to a foster parent or
2 legal custodian ~~caregiver~~ on a permanent basis with or without
3 legal guardianship, must be submitted to the court. The report
4 must be submitted to the court at least 72 ~~48~~ hours before
5 each scheduled judicial review.

6 (d) In addition to or in lieu of any written statement
7 provided to the court, the foster parent or legal custodian
8 ~~caregivers~~, or any preadoptive parent, shall be given the
9 opportunity to address the court with any information relevant
10 to the best interests of the child at any judicial review
11 hearing.

12 (7) The court and any citizen review panel shall take
13 into consideration the information contained in the social
14 services study and investigation and all medical,
15 psychological, and educational records that support the terms
16 of the case plan; testimony by the social services agency, the
17 parent ~~or legal custodian~~, the foster parent or legal
18 custodian ~~caregivers~~, the guardian ad litem if one has been
19 appointed for the child, and any other person deemed
20 appropriate; and any relevant and material evidence submitted
21 to the court, including written and oral reports to the extent
22 of their probative value, may be received by the court in its
23 effort to determine the action to be taken with regard to the
24 child and may be relied upon to the extent of its probative
25 value, even though not competent in an adjudicatory hearing.
26 In its deliberations, the court and any citizen review panel
27 shall seek to determine:

28 (a) If the parent ~~or legal custodian~~ was advised of
29 the right to receive assistance from any person or social
30 service agency in the preparation of the case plan.

31

1 (b) If the parent ~~or legal custodian~~ has been advised
2 of the right to have counsel present at the judicial review or
3 citizen review hearings. If not so advised, the court or
4 citizen review panel shall advise the parent ~~or legal~~
5 ~~custodian~~ of such right.

6 (c) If a guardian ad litem needs to be appointed for
7 the child in a case in which a guardian ad litem has not
8 previously been appointed or if there is a need to continue a
9 guardian ad litem in a case in which a guardian ad litem has
10 been appointed.

11 (d) The compliance or lack of compliance of all
12 parties with applicable items of the case plan, including the
13 parents' compliance with child support orders.

14 (e) The compliance or lack of compliance with a
15 visitation contract between the parent, ~~caregiver, or legal~~
16 ~~custodian~~ and the social service agency for contact with the
17 child, including the frequency, duration, and results of the
18 parent-child visitation and the reason for any noncompliance.

19 (f) The compliance or lack of compliance of the
20 parent, ~~caregiver, or legal custodian~~ in meeting specified
21 financial obligations pertaining to the care of the child,
22 including the reason for failure to comply if such is the
23 case.

24 (g) The appropriateness of the child's current
25 placement, including whether the child is in a setting which
26 is as family-like and as close to the parent's home as
27 possible, consistent with the child's best interests and
28 special needs, and including maintaining stability in the
29 child's educational placement.

30 (h) A projected date likely for the child's return
31 home or other permanent placement.

1 (i) When appropriate, the basis for the unwillingness
2 or inability of the parent, ~~caregiver, or legal custodian~~ to
3 become a party to a case plan. The court and the citizen
4 review panel shall determine if the efforts of the social
5 service agency to secure party participation in a case plan
6 were sufficient.

7 (8)(a) Based upon the criteria set forth in subsection
8 (7) and the recommended order of the citizen review panel, if
9 any, the court shall determine whether or not the social
10 service agency shall initiate proceedings to have a child
11 declared a dependent child, return the child to the parent,
12 ~~legal custodian, or caregiver,~~ continue the child in
13 out-of-home care for a specified period of time, or initiate
14 termination of parental rights proceedings for subsequent
15 placement in an adoptive home. Modifications to the plan must
16 be handled as prescribed in s. 39.601. If the court finds that
17 the prevention or reunification efforts of the department will
18 allow the child to remain safely at home or be safely returned
19 to the home, the court shall allow the child to remain in or
20 return to the home after making a specific finding of fact
21 that the reasons for the creation of the case plan ~~removal~~
22 have been remedied to the extent that the child's safety,
23 well-being, and physical, mental, and emotional health will
24 not be endangered.

25 (b) The court shall return the child to the custody of
26 the parents, ~~legal custodians, or caregivers~~ at any time it
27 determines that they have substantially complied with the case
28 plan, if the court is satisfied that reunification will not be
29 detrimental to the child's safety, well-being, and physical,
30 mental, and emotional health.

31

1 (c) If, in the opinion of the court, the social
2 service agency has not complied with its obligations as
3 specified in the written case plan, the court may find the
4 social service agency in contempt, shall order the social
5 service agency to submit its plans for compliance with the
6 agreement, and shall require the social service agency to show
7 why the child could not safely be returned to the home of the
8 parents, ~~legal custodians, or caregivers.~~

9 (d) The court may extend the time limitation of the
10 case plan, or may modify the terms of the plan, based upon
11 information provided by the social service agency, and the
12 guardian ad litem, if one has been appointed, the parent or
13 parents, and the foster parents or legal custodian, and any
14 other competent information on record demonstrating the need
15 for the amendment. If the court extends the time limitation of
16 the case plan, the court must make specific findings
17 concerning the frequency of past parent-child visitation, if
18 any, and the court may authorize the expansion or restriction
19 of future visitation. Modifications to the plan must be
20 handled as prescribed in s. 39.601. Any extension of a case
21 plan must comply with the time requirements and other
22 requirements specified by this chapter.

23 (e) If, at any judicial review, the court finds that
24 the parents have failed to substantially comply with the case
25 plan to the degree that further reunification efforts are
26 without merit and not in the best interest of the child, it
27 may authorize the filing of a petition for termination of
28 parental rights, whether or not the time period as contained
29 in the case plan for substantial compliance has elapsed.

30 (f) No later than 12 months after the date that the
31 child was placed in shelter care, the court shall conduct a

1 judicial review to plan for the child's permanency. At this
2 hearing, if the child is not returned to the physical custody
3 of the parents, ~~caregivers, or legal custodians~~, the case plan
4 may be extended with the same goals only if the court finds
5 that the situation of the child is so extraordinary that the
6 plan should be extended. The case plan must document steps the
7 department is taking to find an adoptive parent or other
8 permanent living arrangement for the child.

9 (g) The court may issue a protective order in
10 assistance, or as a condition, of any other order made under
11 this part. In addition to the requirements included in the
12 case plan, the protective order may set forth requirements
13 relating to reasonable conditions of behavior to be observed
14 for a specified period of time by a person or agency who is
15 before the court; and such order may require any such person
16 or agency to make periodic reports to the court containing
17 such information as the court in its discretion may prescribe.

18 Section 36. Paragraphs (g) and (h) of subsection (5)
19 of section 39.702, Florida Statutes, 1998 Supplement, are
20 amended to read:

21 39.702 Citizen review panels.--

22 (5) The independent not-for-profit agency authorized
23 to administer each citizen review panel shall:

24 (g) Establish policies to ensure adequate
25 communication with the parent, ~~caregiver, or legal custodian~~,
26 the foster parent or legal custodian ~~caregiver~~, the guardian
27 ad litem, and any other person deemed appropriate.

28 (h) Establish procedures that encourage attendance and
29 participation of interested persons and parties, including the
30 biological parents, foster parents, or legal custodian

31

1 ~~caregivers, or a relative or nonrelative~~ with whom the child
2 is placed, at citizen review hearings.

3 Section 37. Subsection (2) of section 39.703, Florida
4 Statutes, 1998 Supplement, is amended to read:

5 39.703 Initiation of termination of parental rights
6 proceedings.--

7 (2) If, at the time of the 12-month judicial review
8 hearing, a child is not returned to the physical custody of
9 the parents, ~~caregivers, or legal custodians,~~ the social
10 service agency shall initiate termination of parental rights
11 proceedings under this chapter within 30 days. Only if the
12 court finds that the situation of the child is so
13 extraordinary and that the best interests of the child will be
14 met by such action at the time of the judicial review may the
15 case plan be extended. If the court decides to extend the
16 plan, the court shall enter detailed findings justifying the
17 decision to extend, as well as the length of the extension. A
18 termination of parental rights petition need not be filed if:
19 the child is being cared for by a relative who chooses not to
20 adopt the child but who is willing, able, and suitable to
21 serve as the legal guardian for the child until the child
22 reaches 18 years of age; the court determines that filing such
23 a petition would not be in the best interests of the child; or
24 the state has not provided the child's family, when reasonable
25 efforts to return a child are required, consistent with the
26 time period in the state's case plan, such services as the
27 state deems necessary for the safe return of the child to his
28 or her home. Failure to initiate termination of parental
29 rights proceedings at the time of the 12-month judicial review
30 or within 30 days after such review does not prohibit
31

1 initiating termination of parental rights proceedings at any
2 other time.

3 Section 38. Section 39.704, Florida Statutes, 1998
4 Supplement, is amended to read:

5 39.704 Exemptions from judicial review.--Judicial
6 review does not apply to:

7 (1) Minors who have been placed in adoptive homes by
8 ~~the department or by~~ a licensed child-placing agency; or

9 (2) Minors who are refugees or entrants to whom
10 federal regulations apply and who are in the care of a social
11 service agency.

12 Section 39. Paragraphs (a), (b), and (d) of subsection
13 (3) and subsection (6) of section 39.801, Florida Statutes,
14 1998 Supplement, are amended to read:

15 39.801 Procedures and jurisdiction; notice; service of
16 process.--

17 (3) Before the court may terminate parental rights, in
18 addition to the other requirements set forth in this part, the
19 following requirements must be met:

20 (a) Notice of the date, time, and place of the
21 advisory hearing for the petition to terminate parental rights
22 and a copy of the petition must be personally served upon the
23 following persons, specifically notifying them that a petition
24 has been filed:

25 1. The parents of the child.

26 2. The ~~caregivers or~~ legal custodians of the child.

27 3. If the parents who would be entitled to notice are
28 dead or unknown, a living relative of the child, unless upon
29 diligent search and inquiry no such relative can be found.

30 4. Any person who has physical custody of the child.

31

1 5. Any grandparent entitled to priority for adoption
2 under s. 63.0425.

3 6. Any prospective parent who has been identified
4 under s. 39.503 or s. 39.803.

5 7. The guardian ad litem for the child or the
6 representative of the guardian ad litem program, if the
7 program has been appointed.

8
9 The document containing the notice to respond or appear must
10 contain, in type at least as large as the type in the balance
11 of the document, the following or substantially similar
12 language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY
13 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
14 RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON
15 THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS
16 A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION
17 ATTACHED TO THIS NOTICE."

18 (b) If a party ~~person~~ required to be served with
19 notice as prescribed in paragraph (a) cannot be served, notice
20 of hearings must be given as prescribed by the rules of civil
21 procedure, and service of process must be made as specified by
22 law or civil actions.

23 (d) If the person served with notice under this
24 section fails to personally appear at the advisory hearing,
25 the failure to personally appear shall constitute consent for
26 termination of parental rights by the person given notice. If
27 a parent appears for the advisory hearing and the court orders
28 that parent to personally appear at the adjudicatory hearing
29 for the petition for termination of parental rights, stating
30 the date, time, and location of said hearing, then failure of
31

1 that parent to personally appear at the adjudicatory hearing
2 shall constitute consent for termination of parental rights.

3 (6) Subpoenas may be served within the state by any
4 person over 18 years of age who is not a party to the
5 proceeding and, in addition, may be served or executed by
6 authorized agents of the department or of the guardian ad
7 litem.

8 Section 40. Subsection (1), paragraph (b) of
9 subsection (4), and subsection (8), of section 39.802, Florida
10 Statutes, 1998 Supplement, are amended to read:

11 39.802 Petition for termination of parental rights;
12 filing; elements.--

13 (1) All proceedings seeking an adjudication to
14 terminate parental rights pursuant to this chapter must be
15 initiated by the filing of an original petition by the
16 department, the guardian ad litem, ~~or~~ a licensed child-placing
17 agency, ~~or by~~ any other person who has knowledge of the facts
18 alleged or is informed of them and believes that they are
19 true.

20 (4) A petition for termination of parental rights
21 filed under this chapter must contain facts supporting the
22 following allegations:

23 (b) That the parents of the child were informed of
24 their right to counsel at all hearings that they attended
25 ~~attend~~ and that a dispositional order adjudicating the child
26 dependent was entered in any prior dependency proceeding
27 relied upon in offering a parent a case plan as described in
28 s. 39.806.

29 (8) If ~~Whenever~~ the department has entered into a case
30 plan with a parent with the goal of reunification, and a
31 petition for termination of parental rights based on the same

1 facts as are covered in the case plan is filed prior to the
2 time agreed upon in the case plan for the performance of the
3 case plan, then the petitioner must allege and prove by clear
4 and convincing evidence that the parent has materially
5 breached the provisions of the case plan.

6 Section 41. Section 39.805, Florida Statutes, 1998
7 Supplement, is amended to read:

8 39.805 No answer required.--No answer to the petition
9 or any other pleading need be filed by any child or parent,
10 ~~caregiver, or legal custodian,~~ but any matters which might be
11 set forth in an answer or other pleading may be pleaded orally
12 before the court or filed in writing as any such person may
13 choose. Notwithstanding the filing of any answer or any
14 pleading, the child or parent shall, prior to the adjudicatory
15 hearing, be advised by the court of the right to counsel and
16 shall be given an opportunity to deny the allegations in the
17 petition for termination of parental rights or to enter a plea
18 to allegations in the petition before the court.

19 Section 42. Paragraphs (b), (d), (e), and (h) of
20 subsection (1) of section 39.806, Florida Statutes, 1998
21 Supplement, are amended to read:

22 39.806 Grounds for termination of parental rights.--

23 (1) The department, the guardian ad litem, a licensed
24 child-placing agency, or any person who has knowledge of the
25 facts alleged or who is informed of said facts and believes
26 that they are true, may petition for the termination of
27 parental rights under any of the following circumstances:

28 (b) When the identity or location of the parent or
29 parents is unknown and cannot be ascertained by diligent
30 search within 60 ~~90~~ days.

31

1 (d) When the parent of a child is incarcerated in a
2 state or federal correctional institution and either:

3 1. The period of time for which the parent is expected
4 to be incarcerated will constitute a substantial portion of
5 the period of time before the child will attain the age of 18
6 years;

7 2. The incarcerated parent has been determined by the
8 court to be a violent career criminal as defined in s.
9 775.084, a habitual violent felony offender as defined in s.
10 775.084, or a sexual predator as defined in s. 775.21; has
11 been convicted of first degree or second degree murder in
12 violation of s. 782.04 or a sexual battery that constitutes a
13 capital, life, or first degree felony violation of s. 794.011;
14 or has been convicted of an offense in another jurisdiction
15 which is substantially similar to one of the offenses listed
16 in this paragraph. As used in this section, the term
17 "substantially similar offense" means any offense that is
18 substantially similar in elements and penalties to one of
19 those listed in this paragraph, and that is in violation of a
20 law of any other jurisdiction, whether that of another state,
21 the District of Columbia, the United States or any possession
22 or territory thereof, or any foreign jurisdiction; or ~~and~~

23 3. The court determines by clear and convincing
24 evidence that continuing the parental relationship with the
25 incarcerated parent would be harmful to the child and, for
26 this reason, that termination of the parental rights of the
27 incarcerated parent is in the best interest of the child.

28 (e) A petition for termination of parental rights may
29 also be filed when a child has been adjudicated dependent, a
30 case plan has been filed with the court, and the child
31 continues to be abused, neglected, or abandoned by the

1 parents. In this case, the failure of the parents to
2 substantially comply for a period of 12 months after an
3 adjudication of the child as a dependent child or the child's
4 placement into shelter care, whichever came first, constitutes
5 evidence of continuing abuse, neglect, or abandonment unless
6 the failure to substantially comply with the case plan was due
7 either to the lack of financial resources of the parents or to
8 the failure of the department to make reasonable efforts to
9 reunify the family. Such 12-month period may begin to run only
10 after the child's placement into shelter care or the entry of
11 a disposition order placing the custody of the child with the
12 department or a person other than the parent and the approval
13 by the court of a case plan with a goal of reunification with
14 the parent, whichever came first.

15 (h) When the parent or parents have committed murder
16 or voluntary manslaughter of another child ~~of the parent~~, or a
17 felony assault that results in serious bodily injury to the
18 child or another child ~~of the parent~~, or aided or abetted,
19 attempted, conspired, or solicited to commit such a murder or
20 voluntary manslaughter or felony assault.

21 Section 43. Paragraph (b) of subsection (2) of section
22 39.807, Florida Statutes, 1998 Supplement, is amended to read:

23 39.807 Right to counsel; guardian ad litem.--

24 (2)

25 (b) The guardian ad litem has the following
26 responsibilities:

27 1. To investigate the allegations of the petition and
28 any subsequent matters arising in the case and, unless excused
29 by the court, to file a written report. This report must
30 include a statement of the wishes of the child and the
31 recommendations of the guardian ad litem and must be provided

1 to all parties and the court at least 72 ~~48~~ hours before the
2 adjudicatory disposition hearing.

3 2. To be present at all court hearings unless excused
4 by the court.

5 3. To represent the interests of the child until the
6 jurisdiction of the court over the child terminates or until
7 excused by the court.

8 Section 44. Subsections (4) and (5) of section 39.808,
9 Florida Statutes, 1998 Supplement, are amended to read:

10 39.808 Advisory hearing; pretrial status conference.--

11 (4) An advisory hearing is not required ~~may not be~~
12 ~~held~~ if a petition is filed seeking an adjudication for
13 termination of voluntarily to terminate parental rights based
14 on a voluntary surrender of parental rights. Adjudicatory
15 hearings for petitions for voluntary termination must be held
16 within 21 days after the filing of the petition. Notice of the
17 use of this subsection must be filed with the court at the
18 same time as the filing of the petition to terminate parental
19 rights.

20 (5) Not less than 10 days before the adjudicatory
21 hearing on a petition for involuntary termination of parental
22 rights, the court shall conduct a pretrial ~~prehearing~~ status
23 conference to determine the order in which each party may
24 present witnesses or evidence, the order in which
25 cross-examination and argument shall occur, and any other
26 matters that may aid in the conduct of the adjudicatory
27 hearing to prevent any undue delay in the conduct of the
28 adjudicatory hearing.

29 Section 45. Subsections (2), (4), (7), and (8), and
30 paragraph (e) of subsection (6) of section 39.811, Florida
31 Statutes, 1998 Supplement, are amended to read:

1 39.811 Powers of disposition; order of disposition.--
2 (2) If the child is in the ~~out-of-home care~~ custody of
3 the department and the court finds that the grounds for
4 termination of parental rights have been established by clear
5 and convincing evidence, the court shall, by order, place the
6 child in the custody of the department or ~~for the purpose of~~
7 ~~adoption or place the child in the custody of~~ a licensed
8 child-placing agency for the purpose of adoption.
9 (4) If the child is neither in the custody of the
10 department nor in the custody of a parent and the court finds
11 that the grounds for termination of parental rights have been
12 established for either or both parents, the court shall enter
13 an order terminating parental rights for the parent or parents
14 for whom the grounds for termination have been established and
15 placing the child with the department or an appropriate legal
16 custodian. If the parental rights of both parents have been
17 terminated, or if the parental rights of only one parent have
18 been terminated and the court makes specific findings based on
19 evidence presented that placement with the remaining parent is
20 likely to be harmful to the child, the court may order that
21 the child be placed with a legal custodian other than the
22 department after hearing evidence of the suitability of such
23 intended placement. Suitability of the intended placement
24 includes the fitness and capabilities of the proposed legal
25 custodian to function as the primary caregiver for a
26 particular child; and the compatibility of the child with the
27 home in which the child is intended to be placed. If the
28 court orders that a child be placed with a legal custodian
29 under this subsection, the court shall appoint such legal
30 custodian as the guardian for the child as provided in s.
31 744.3021. The court may modify the order placing the child in

1 the custody of the legal custodian and revoke the guardianship
2 established under s. 744.3021 if the court subsequently finds
3 ~~that a party to the proceeding other than a parent whose~~
4 ~~rights have been terminated has shown a material change in~~
5 ~~circumstances which causes~~ the placement to be no longer in
6 the best interest of the child.

7 (6) The parental rights of one parent may be severed
8 without severing the parental rights of the other parent only
9 under the following circumstances:

10 (e) If the parent whose rights are being terminated
11 meets any of the criteria specified in s. 39.806(1)(d) and
12 (f)-(i).

13 (7)(a) The termination of parental rights does not
14 affect the rights of grandparents unless the court finds that
15 continued visitation is not in the best interests of the child
16 or that such visitation would interfere with the permanency
17 ~~goals of permanency planning~~ for the child.

18 (b) If the court terminates parental rights, it may,
19 as appropriate, order that the parents, siblings, or relatives
20 of the parent whose rights are terminated be allowed to
21 maintain some communication or contact with the child pending
22 adoption if the best interests of the child support this
23 continued communication or contact, except as provided in
24 paragraph (a). If the court orders such continued
25 communication or contact, which may include, but is not
26 limited to, visits, letters, and cards or telephone calls, the
27 nature and frequency of the communication or contact must be
28 set forth in written order and may be reviewed upon motion of
29 any party, or including, for purposes of this subsection, an
30 identified prospective adoptive parent. If a child is placed
31 for adoption, the nature and frequency of the communication or

1 contact must be reviewed by the court at the time the child is
2 placed for adoption ~~adopted~~.

3 (8) If the court terminates parental rights, it shall,
4 in its order of disposition, provide for a hearing, to be
5 scheduled no later than 30 days after the date of disposition,
6 in which the department or the licensed child-placing agency
7 shall provide to the court an amended case ~~a~~ plan which
8 identifies the ~~for~~ permanency goal for the child. Reasonable
9 efforts must be made to place the child in a timely manner in
10 accordance with the permanency plan and to complete whatever
11 steps are necessary to finalize the permanent placement of the
12 child. Thereafter, until the adoption of the child is
13 finalized or the child reaches the age of 18 years, whichever
14 occurs first, the court shall hold hearings at 6-month
15 intervals to review the progress being made toward permanency
16 for the child.

17 Section 46. Subsection (1) and paragraph (a) of
18 subsection (6) of section 39.814, Florida Statutes, 1998
19 Supplement, are amended to read:

20 39.814 Oaths, records, and confidential information.--

21 (1) The judge, clerks or deputy clerks, and ~~or~~
22 authorized agents of the department shall each have the power
23 to administer oaths and affirmations.

24 (6) No court record of proceedings under this part
25 shall be admissible in evidence in any other civil or criminal
26 proceeding, except that:

27 (a) Orders terminating the rights of a parent are
28 admissible in evidence in subsequent adoption proceedings
29 relating to the child and in subsequent termination of
30 parental rights proceedings concerning a sibling of the child.

31

1 Section 47. Subsection (3) of section 39.815, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 39.815 Appeal.--

4 (3) The taking of an appeal does not operate as a
5 supersedeas in any case unless the court so orders. However, a
6 termination of parental rights order with placement of the
7 child with a licensed child-placing agency or the department
8 for subsequent adoption is suspended while the appeal is
9 pending, but the child shall continue in an out-of-home
10 placement ~~custody~~ under the order until the appeal is decided.

11 Section 48. Subsection (3) of section 39.822, Florida
12 Statutes, 1998 Supplement, is amended to read:

13 39.822 Appointment of guardian ad litem for abused,
14 abandoned, or neglected child.--

15 (3) The guardian ad litem or the program
16 representative shall review all disposition recommendations
17 and changes in placements, and must be present at all critical
18 stages of the dependency proceeding or submit a written report
19 of recommendations to the court. Written reports must be filed
20 with the court and served on all parties whose whereabouts are
21 known at least 72 hours prior to the hearing.

22 Section 49. Subsection (1) of section 63.0427, Florida
23 Statutes, 1998 Supplement, is amended to read:

24 63.0427 Adopted minor's right to continued
25 communication or contact with siblings.--

26 (1) A child whose parents have had their parental
27 rights terminated and whose custody has been awarded to the
28 department pursuant to s. 39.811 ~~39.469~~, and who is the
29 subject of a petition for adoption under this chapter, shall
30 have the right to have the court consider the appropriateness
31 of postadoption communication or contact, including, but not

1 limited to, visits, letters and cards, or telephone calls,
2 with his or her siblings who are not included in the petition
3 for adoption. The court shall determine if the best interests
4 of the child support such continued communication or contact
5 and shall consider the following in making such determination:

6 (a) Any orders of the court pursuant to s. 39.811(7)
7 ~~39.469(7)~~.

8 (b) Recommendations of the department, the foster
9 parents if other than the adoptive parents, and the guardian
10 ad litem.

11 (c) Statements of prospective adoptive parents.

12 (d) Any other information deemed relevant and material
13 by the court.

14

15 If the court determines that the child's best interests will
16 be served by postadoption communication or contact with any
17 sibling, the court shall so order, stating the nature and
18 frequency for the communication or contact. This order shall
19 be made a part of the final adoption order, but in no event
20 shall continuing validity of the adoption be contingent upon
21 such postadoption communication or contact, nor shall the
22 ability of the adoptive parents and child to change residence
23 within or outside the State of Florida be impaired by such
24 communication or contact.

25 Section 50. Paragraph (d) of subsection (1) of section
26 419.001, Florida Statutes, 1998 Supplement, is amended to
27 read:

28 419.001 Site selection of community residential
29 homes.--

30 (1) For the purposes of this section, the following
31 definitions shall apply:

1 (d) "Resident" means any of the following: a frail
2 elder as defined in s. 400.618; a physically disabled or
3 handicapped person as defined in s. 760.22(7)(a); a
4 developmentally disabled person as defined in s.
5 393.063(12)(~~11~~); a nondangerous mentally ill person as defined
6 in s. 394.455(18); or a child as defined in s. 39.01(14)(~~11~~),
7 s. 984.03(9) or (12), or s. 985.03(8).

8 Section 51. This act shall take effect July 1, 1999.

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LEGISLATIVE SUMMARY

Revises, clarifies, and conforms provisions of ch. 39,
F.S., relating to child protection and child dependency.